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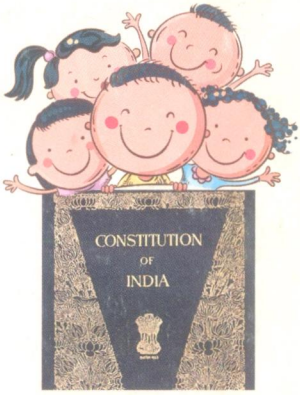

OUR CONSTITUTION

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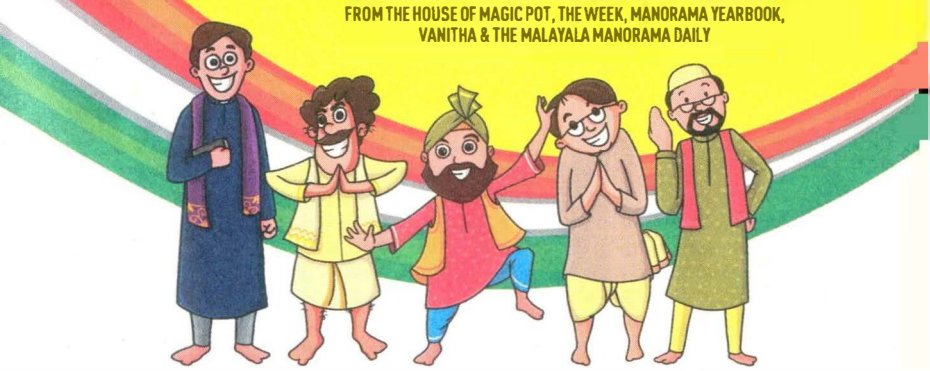
MANORAMA
TELL ME WHY
February 2020 • Volume: 14 • No: 02
FROM THE HOUSE OF MAGIC POT, THE WEEK, MANORAMA YEARBOOK, VANITHA & THE MALAYALA MANORAMA DAILY



OUR CONSTITUTION- THE GUIDELINE OF GOVERNANCE

Each country has many rules and policies according to which it is governed. These rules and policies are framed based on the vision of the nation and the values it upholds. The legal document that lays down the basic structure of the ruling system of a country is known as its Constitution.

Are leaders and policy makers the only people who should be familiar with the Constitution? All of us should have the basic idea about what is mentioned in the Constitution of our country so that, we will be aware of our rights and provisions for justice in case of a conflict.

This issue of *Tell Me Why* is about the Constitution of India; the making of our Constitution, the preamble, fundamental rights, fundamental duties, the three-tier system of governance and much more.

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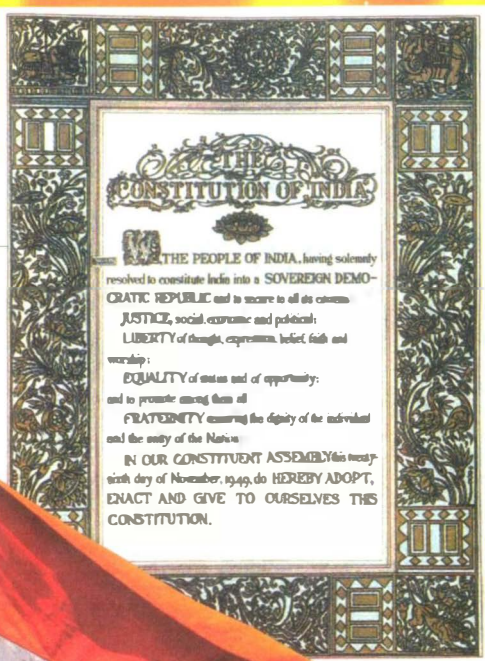
THE STORY OF OUR CONSTITUTION

Preamble to the Constitution of India

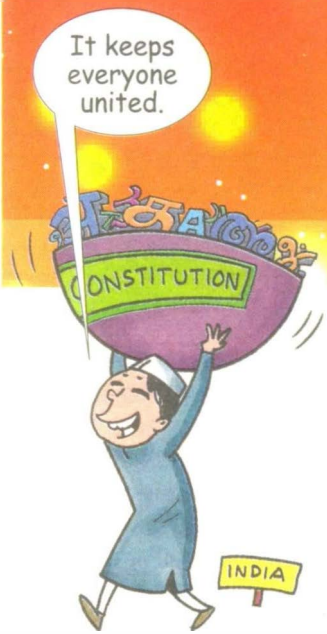

THE CONSTITUTION OF INDIA
WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens
JUSTICE, social, economic and political;
LIBERTY of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity;
and to promote among them all
FRATERNITY assuring the dignity of the individual and the unity of the Nation
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

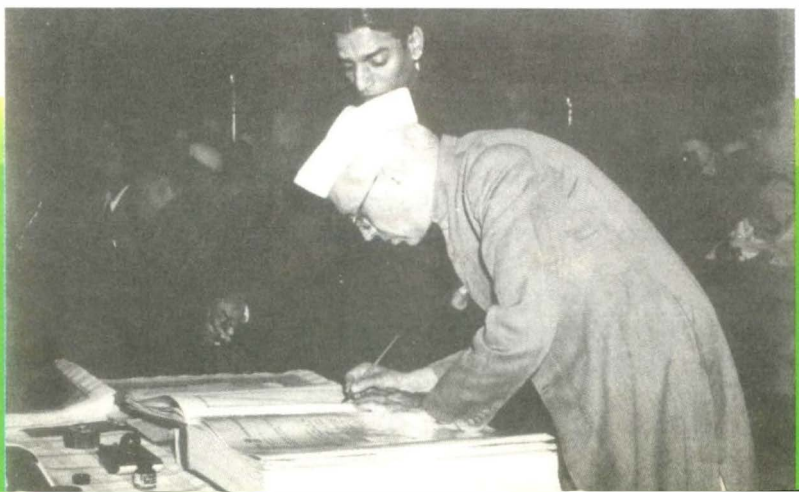
Why do we have a Constitution?

We live in a truly diverse country. Our country is a beautiful mix of different languages, cultures and beliefs. To rule such a country, we need a just and strong foundation that will ensure harmony. That is why we have a Constitution.

The Indian Constitution is the foundation of our government. It is the supreme law of our country. The Constitution guarantees fundamental rights and protection during times of adversity to all the citizens of our country. It is a set of rules that are written, authorised and approved by the people.

The Constitution is the last word when it comes to laws. In fact, it is the symbol of the vision and values of our country. It lays the basic structure of our political system.





Jawaharlal Nehru signing the Constitution

Dr. B R Ambedkar, presenting the final draft of the Indian Constitution to Dr. Rajendra Prasad

Which is the longest written Constitution in the world?

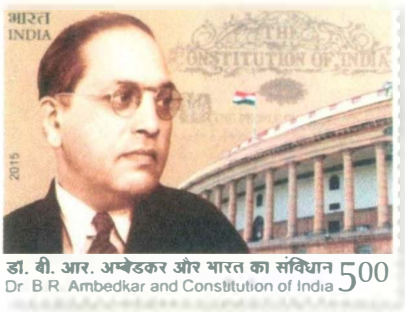
With 448 articles and twelve schedules neatly placed in 25 sections, the Indian Constitution is the longest ever Constitution of any sovereign country in the world.

The Constitution of India lays down the fundamental rights, directive principles and the fundamental duties of the citizens. It declared India a sovereign, socialist, secular, democratic, republic and assures liberty, equality and fraternity to all of its citizens.

The Constitution was prepared by the Drafting Committee. We will talk about all these in detail. The Constitution was adopted by the Constituent Assembly of India on 26 November, 1949 and came into effect on 26 January, 1950.

2 Years, 11 Months and 18 Days

It took two years, eleven months and eighteen days to prepare the final draft of the Constitution.



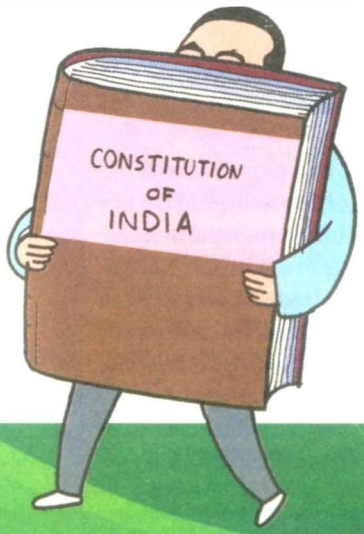
A commemorative stamp issued by India on Dr. B R Ambedkar

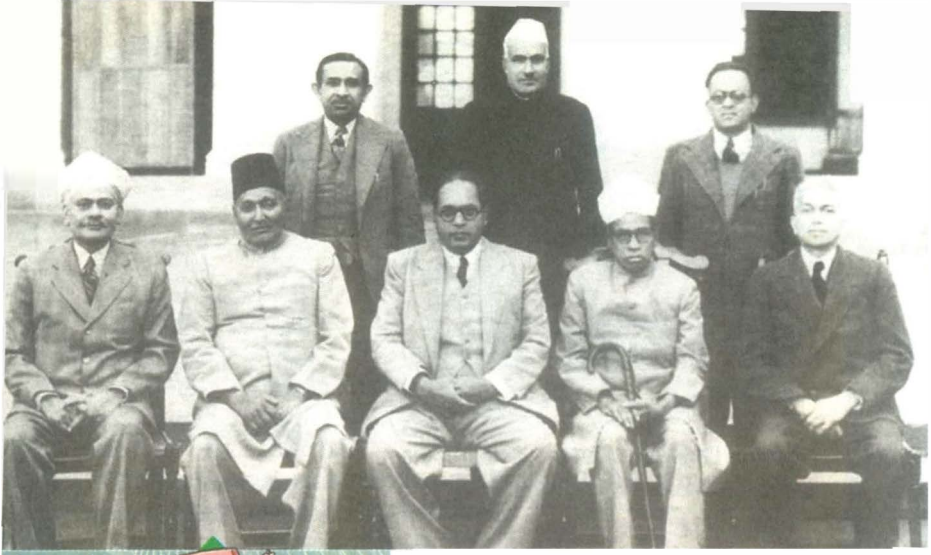
Why was the Constitution drafted?

India was under the British Empire for at least two hundred years before it got independence on 15th August, 1947.

Even before independence, our leaders had demanded from the British administrators that Indians should be involved in the governance of our country. This resulted in the implementation of the Government of India Act of 1935. According to this act, the governance of some areas like health, agriculture and education was left to the local government made up of Indian ministers.

When our country became independent, there was the need to draft a permanent and organised set of rules and laws that would aid in the governance of the country. Dr. B R Ambedkar played the most prominent role in this. The Drafting Committee was formed and the Constitution was drafted under his guidance.





Members of the drafting committee

Who is known as the 'chief architect of the Indian Constitution'?

Dr. Ambedkar played a pivotal rule in drafting the Constitution of our country when it was still at its birth pangs. Therefore, he is known as the chief architect of the Indian Constitution.

While serving as the Law and Justice Minister, Babasaheb- as he is fondly known- was appointed as the Chairman of the Constitution Drafting Committee. He was already a renowned social reformer with a keen sense of law and justice.

CURIOUS FACT

Beautifully Handmade

The original document of the Constitution of India was handwritten by Prem Behari Narain Raizada. It was written in beautiful calligraphy, in a flowing italic style. Each page was decorated by artists from Shantiniketan.

With an avid knowledge of the Constitutions of 60 countries, he was a constitutional expert too. No wonder he was asked to draft the Constitution by the Constituent Assembly.

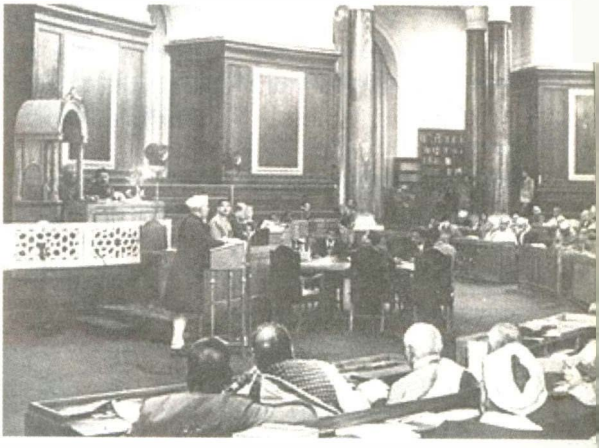
The draft he prepared talked about a range of civil liberties and constitutional guarantees. Babasaheb is also known as the Father of the Indian Constitution.

What do we know about the Constitution Drafting Committee?

The Constituent Assembly of India came into being in 1946, even before India got independence. The Constituent Assembly was chaired by Dr. Rajendra Prasad and had 385 members representing different sections of the society.

At a meeting held on 29 August, 1947, the Constituent Assembly decided to form a Drafting Committee to prepare the Indian Constitution. B N Rau had already prepared a Constitution draft. The Drafting Committee's job included the thorough examination of the draft and adding necessary changes.

Dr. B R Ambedkar was appointed as the chairman of the Drafting Committee. The Committee had six other members and began functioning by October, 1947. It was the draft prepared by this committee that later became the Constitution of India.



Jawaharlal Nehru addressing the Constituent Assembly

The Bilingual Constitution

The original Constitution was written both in English and Hindi.

When did the Constitution come into effect?

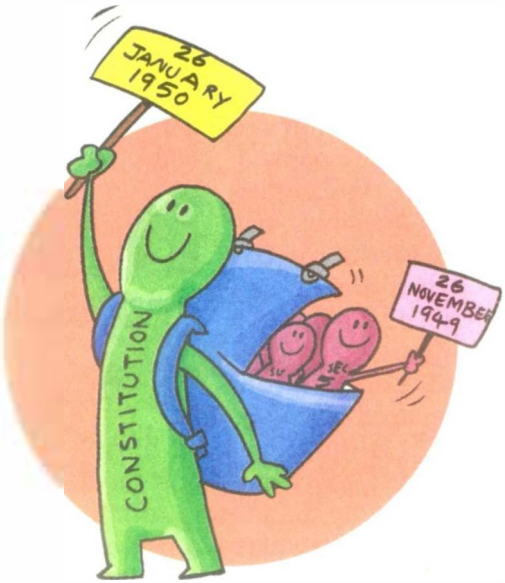
The Drafting Committee worked relentlessly to study and prepare a just and righteous set of laws for the country. Within two years, they came out with the final draft and this draft was accepted as the Constitution of India by the Constituent Assembly.

Thus, the Constitution of India came into effect on 26th January, 1950 and India became a sovereign republic.

Some of the sections came into effect even before 26th January, 1950. Fourteen sections of the Constitution -sections 5, 6, 7, 8, 9, 60, 324, 366, 367, 380, 391, 392, 393 and 394- came into effect on 26th November, 1949. The rest came into effect on 26th January, 1950.

Was our Constitution influenced by the Constitutions of other countries?

It would not be wrong to say that some other nations have played a part in the making of the Indian Constitution. It picked up the best features from the Constitutions of



COUNTRIES AND THEIR CONSTITUENT IDEAS BORROWED FROM THEM	
Britain	Rule of Law, Single Citizenship, Cabinet system, Parliamentary privileges
USA	Functions of the president and vice-president, judicial review
Canada	Appointment of the Governors at the states, Advisory jurisdiction at the supreme court
Australia	The concept of Concurrent List, Article 108, Freedom of trade and commerce
USSR (Now Russia)	Fundamental Duties, the ideals of economic, social and political justice
South Africa	Amendment of the Constitution, Election of members to the Rajyasabha
Japan	The concept of 'procedure established by Law'

other countries. Let's look at the influences in detail.

The parliamentary system of government is borrowed from the British. The Indian legislative system is modelled upon the British system of governance. The Directive Principles of State Policy and the method of election of the President are borrowed from Ireland.

The Fundamental Rights are borrowed from the Constitution of the US. Our judiciary is independent, just like how it is in the US. The rules regarding governance during emergencies are taken from Germany.

The concept of the Republic comes from France.Needless to say, the ideals of liberty, equality and fraternity too are borrowed from France. The list does not end here. Some other influences are mentioned in the table given here.

SALIENT FEATURES OF THE CONSTITUTION

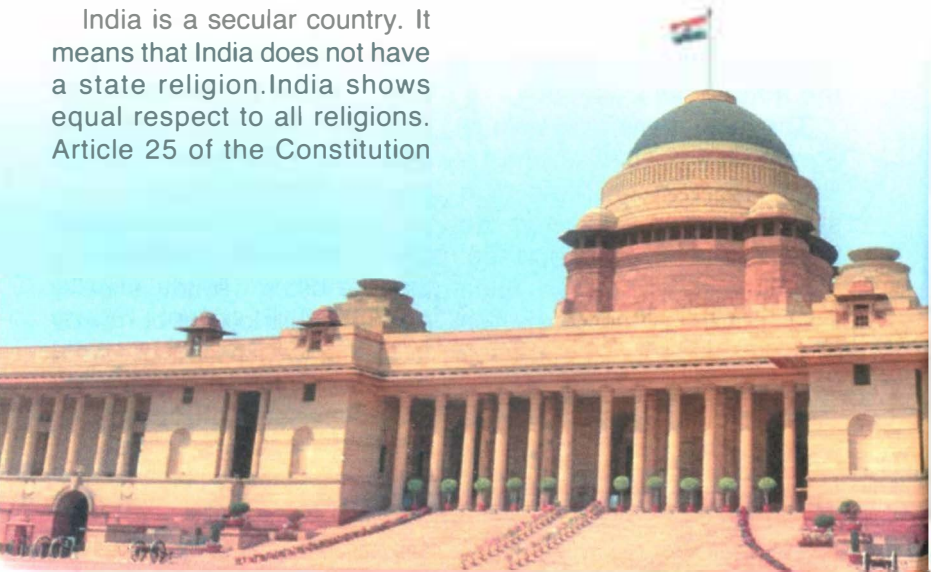
PRINCIPLES THAT MAKE OUR CONSTITUTION UNIQUE IN THE WORLD.

Does India have an official religion?

Some countries have a state religion. State religion, or the official religion is a religion that is officially accepted by the country. For instance, Monaco is a Christian country. Thailand is a Buddhist nation and Oman an Islamic state. But, this is not the case with India.

India is a secular country. It means that India does not have a state religion.India shows equal respect to all religions. Article 25 of the Constitution guarantees the 'Right to Freedom of Religion.'

The people of India are free to practice any religion of their choice. That is why we have the peaceful co-existence of different religions. Indians belong to different religious groups including Hinduism, Islam, Christianity, Buddhism, Jainism, Sikhism and various others.



What does it mean when we say that India is sovereign?

The preamble says that India is a sovereign, socialist, secular, democratic republic. We already know what secular means. But what is sovereignty? Let's take a closer look.

Our country is sovereign; it has the supreme and ultimate power. In short it means the independent authority of the State. The Constitution says that the supreme power lies with its people. Our country has the complete authority to decide for itself. It does not succumb to any external powers.

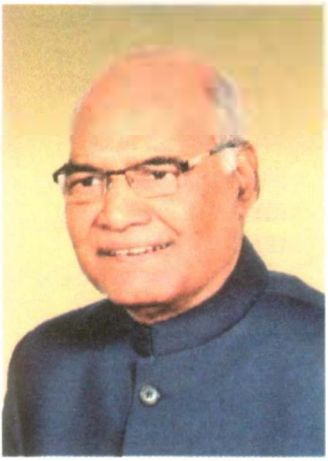
In monarchies, the sovereign power lies with the monarch. But, since India is a republic, the power lies with the elected representatives.

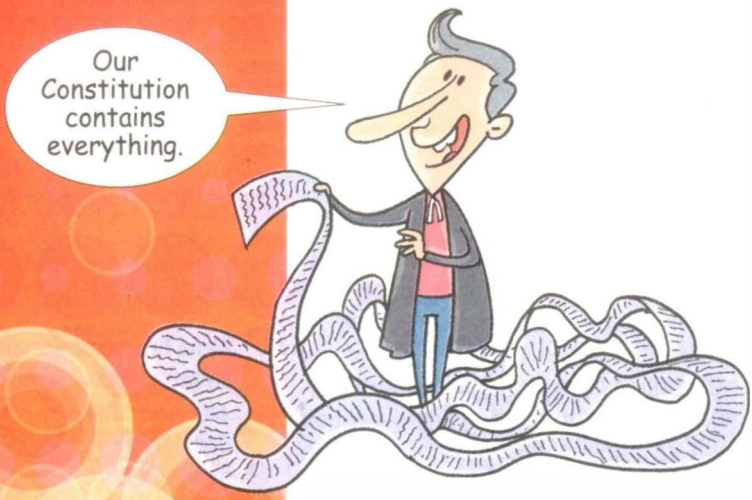
Rashtrapati Bhavan

The Gift of the Seventies

India became a secular country in the 1970s. The 42nd Amendment of the Constitution of India asserted that India is a secular nation. This was enacted in 1976.

President of India, Ram Nath Kovind





Rain as the Witness

284 members including fifteen women signed the Constitution. It was raining when the members signed the Constitution. Some interpreted the rain as a good omen.

Why is our Constitution lengthy?

We already know that our Constitution is the longest written constitution on Earth. But why is it so lengthy?

Some countries like the US have separate Constitutions. Apart from the federal Constitution, each State of America holds its own separate Constitution. This is not the case with India. The Indian Constitution includes the Constitution of the Union and also the States.

When it was written down, our Constitution-makers did not want to leave any stones unturned. They did not leave any subject open to doubt or controversies. It talks not only about the provisions, but also

sets the limitations clearly. It also contains the descriptions of the Directive Principles of State Policy and the Fundamental duties.

How does our Constitution describe parliamentary democracy?

'By parliamentary democracy we mean 'one man, one vote', Dr. Ambedkar once said this while addressing the Constituent Assembly. This meant that the people of India had the right to choose their leaders. But, how do we choose our leaders?

The founding fathers of our Constitution decided to go with the idea of universal adult suffrage. This meant that every adult Indian had the right to cast one vote regardless of their gender, caste, social or economic differences.

Our Constitution granted equal voting rights to all of the citizens at a time when even advanced democracies of the West hesitated to do so.

Parliament of India

What do we know about the Charter of Fundamental Rights?

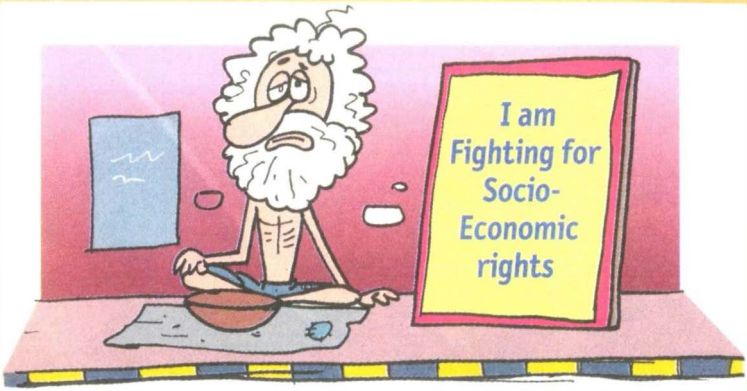
The tough times before independence had taught our leaders one thing; all people should have some basic human rights like freedom and equality.

Our country has a set of minority communities who were subjected to inhuman treatment by others. This made it necessary to have a formal declaration of certain basic rights in the Constitution. This is why we have a Charter of Fundamental Rights. This is included in Part III of the Constitution and talks about the rights of each individual against the State.

Fundamental Rights are really powerful. In case of the denial of fundamental rights, the case can be challenged in the Supreme Court or High Courts. Our Constitution also mentions the system for the enforcement of fundamental rights.

Safe in the Helium Case

The original copies of the Indian Constitution are kept safe in special helium-filled cases in the Library of the Parliament of India.



Which part of the Constitution talks about the socio-economic rights of the people?

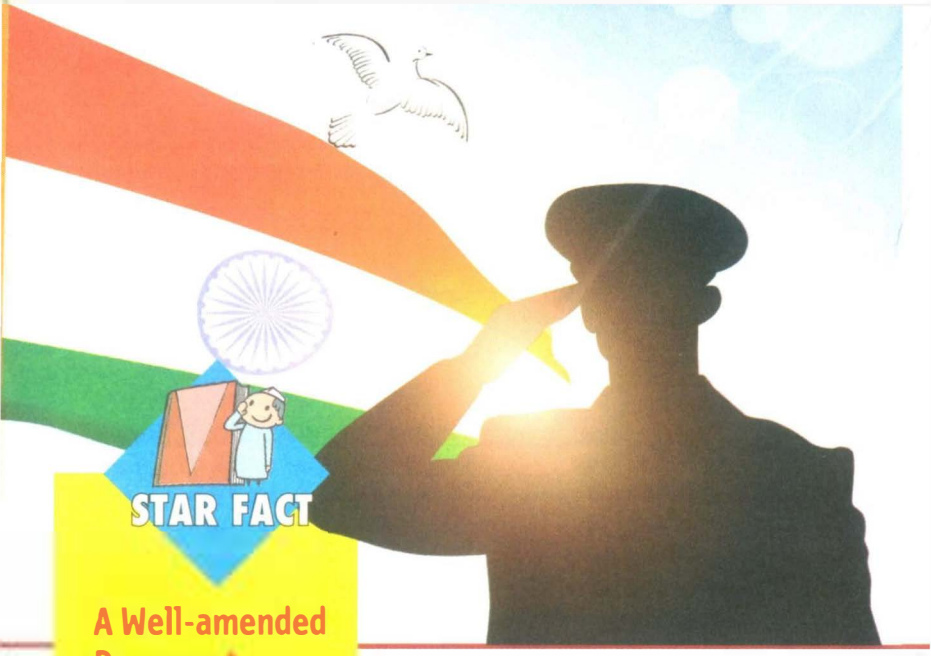
You might have heard of something called 'Directive Principles of State Policy'. It is the directive principles that talk about the socio-economic rights of the people. This is a unique feature of our Constitution and guides the governance of our country.

Unlike the fundamental rights, they cannot be enforced in courts, but the State constantly strives to achieve them. The idea of directive principles was inspired by the Irish system of governance. It is contained in Part IV of the Constitution. It is the duty of the State to apply these principles while framing laws for the country.

When were the Fundamental Duties introduced?

Before talking about the introduction of fundamental duties, let us try to understand what it means. Fundamental duties are a set of eleven duties that every citizen of India has to the country. The Constitution not only grants rights; the citizens are also supposed to fulfil certain duties towards the country.

The Fundamental Duties were not there when the Constitution was originally



STAR FACT

A Well-amended Document

When the draft of the Constitution was prepared, it was put forth for debate and discussion. Over 2000 amendments were made before it was finalised.

written. It was added to the Constitution in the 42nd amendment. This happened in 1976. It is officially known as the Constitution Act of 1976 and was enacted by the Congress government led by Indira Gandhi. The 42nd amendment is also famous for bringing the most widespread changes in the history of the Constitution.

What do we know about the Government of India?

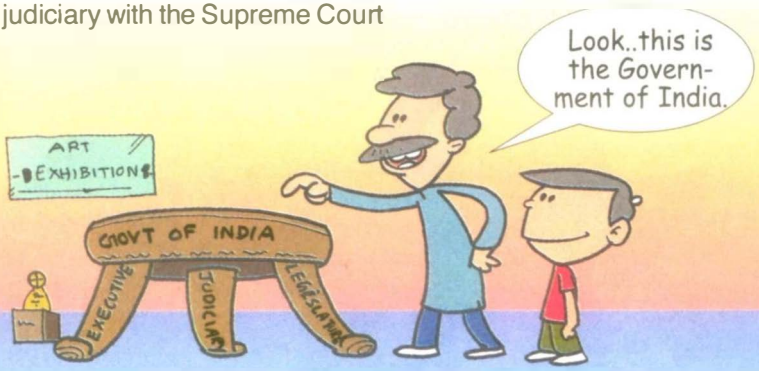
The Government of India is composed of three units- the executive, the legislature and the judiciary. There is a clear separation of power between the three organs.

The government is divided into three branches with each holding specific powers and responsibilities. The execu-

Supreme Court of India, New Delhi

tive is vested with the responsibility of the day-to-day running of our country. The executive includes the president, vice president, prime minister and other ministers of the cabinet.

The legislature is made up of the two houses of the Parliament- the Lok Sabha and the Rajya Sabha. India has an independent judiciary with the Supreme Court at its helm. The Indian judicial system operates both at the regional and national levels. Apart from the Supreme Court, we have High Courts at the state level and the district courts and sessions courts at the district level.



Is it possible to make changes to the Constitution?

The Constitution was not made in a single day. After coming into effect in 1950, changes were made to the Constitution several times. These changes are known as amendments.

An amendment is not as simple as it sounds. To make an amendment, the idea first needs to be proposed in the parliament. This proposal or the Bill should be passed by at least a majority of two-third of the votes. This Bill should then be approved by the President. The amendment can only be made if the President signs the Bill. This is mentioned in Article 368 of the Constitution.

There is another type of amendment where apart from the above mentioned procedures, the Bill needs to be approved by the states of India.

What do we mean when we say that India is a republic?

When we say that India is a republic, we mean that the people are supreme in this country and there is no privileged class. There is no discrimination and the public offices are open for all citizens alike.

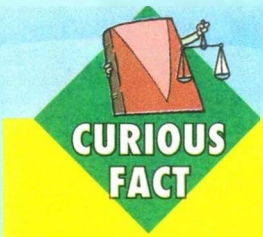
India does not have a hereditary ruler. All the leaders are elected by the people of India and they would rule for a fixed term. In short, the government is a set of representatives chosen by the people, for the people.

The Preamble of the Constitution suggests that India is a democratic republic. The President is the head of the republic. All citizens are equal in the eyes of the law irrespective of their race, caste, sex or creed.

Remembering the French Motto

The ideals of liberty, equality and fraternity that is mentioned in our Preamble is taken from the French Revolution. It was the motto of the revolution.

SOCIAL JUSTICE



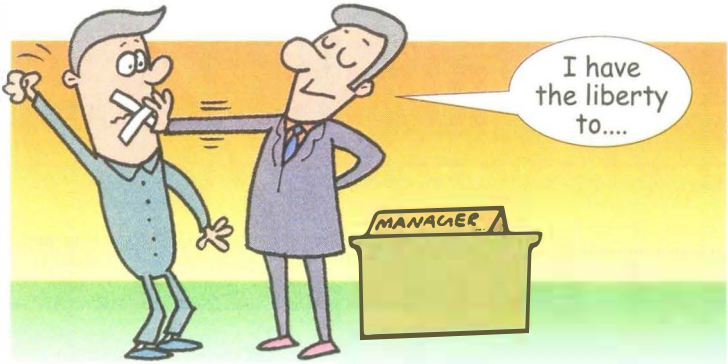
The American Inspiration

The Preamble of our Constitution starts with the phrase 'We the People'. This is inspired by the Preamble to the Constitution of the United States.

What sort of justice does the Constitution grant us?

The Preamble of the Constitution guarantees justice to all citizens. Justice is a state of harmony between the interests of individuals, groups and communities. Justice holds a higher place in the Preamble than the ideals like liberty, equality or fraternity.

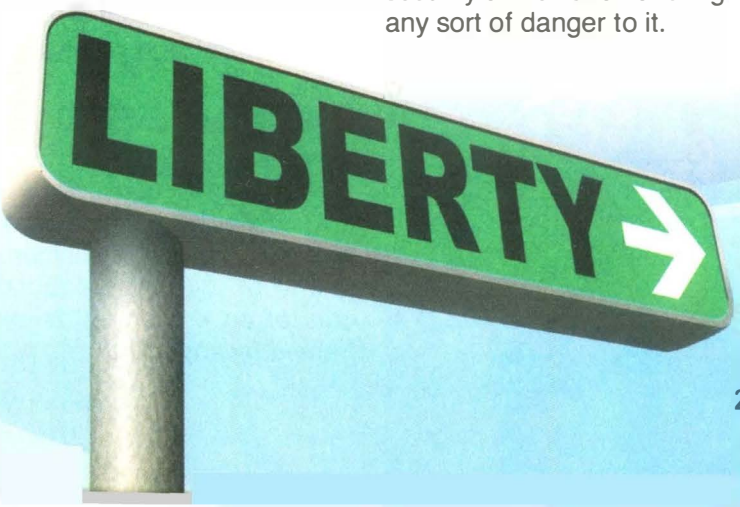
Justice is not just law alone. Justice mentioned in the Preamble includes social, economic and political justice. Social justice suggests that all citizens will be given equal treatment. Economic justice means that efforts will be made to bridge the gap between the rich and the poor. Political justice guarantees all citizens with equal rights to participate in political processes.



How do we understand the term Liberty in the context of the Preamble?

The word liberty is of French origin and it means freedom from captivity. But, when we talk about liberty in the context of our Preamble, it means the absence of government interference in an individual's freedom and the absence of any kind of domination.

Our Constitution guarantees the liberty of thought, expression, belief, faith and worship. In short, an individual has the complete freedom to do what he/she likes. This liberty is however regulated by the Constitution as it should not interfere with the security of the nation or bring any sort of danger to it.



FUNDAMENTAL RIGHTS

THE FOUNDATION ON WHICH OUR DEMOCRATIC NATION RESTS

How many fundamental rights does a citizen of India have?

The basic rights that are necessary for the moral and intellectual life of an individual are known as fundamental rights. The Constitution of India guarantees six fundamental rights to its citizens. They are

- Right to equality
- Right to freedom
- Right against exploitation
- Right to freedom of religion
- Cultural and educational rights and
- Right to constitutional remedies.

The matters concerning the fundamental rights are mentioned in Part III of the Constitution. It is one of the most elaborate charter on human rights ever framed by any State.

AMAZING

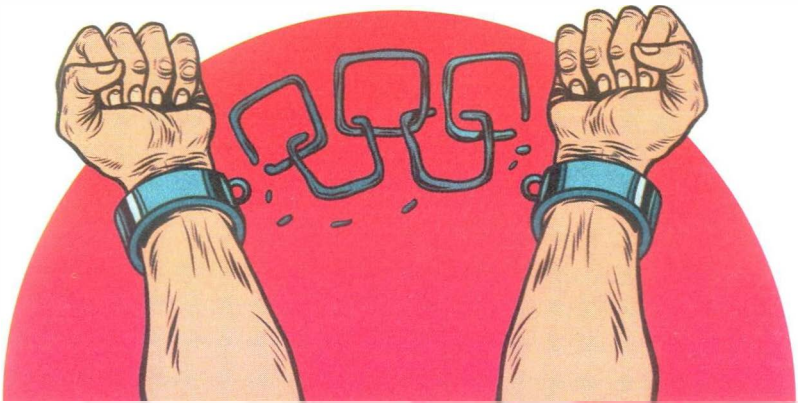
Every Word Counts

The English version of the Constitution has a total of 1,17,369 words.

What are the main concerns expressed through the right to equality?

Article 14-18 of the Constitution talks about the right to equality. According to this, the State cannot deny any person equality before the law. Article 14 suggests that all Indian citizens are entitled to equal protection of the laws within our country.

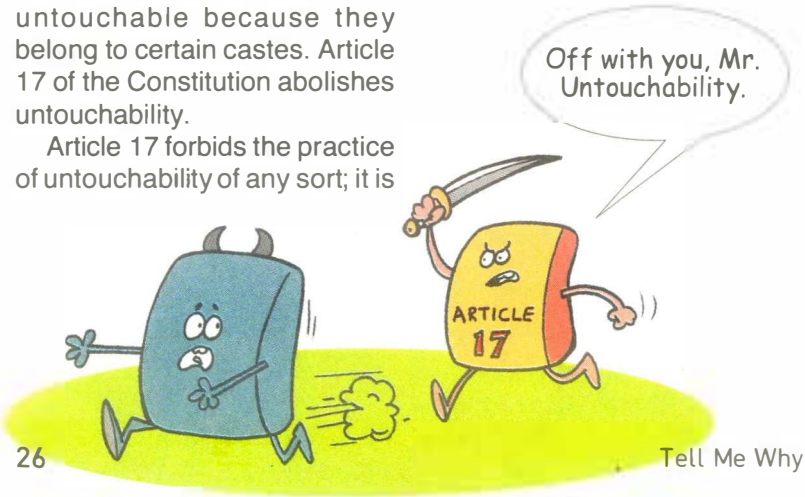
Article 15 states that the State cannot discriminate anyone based on their religion, race, caste, sex or place of birth. No citizen can be restricted on the same grounds as well. This is not enough for the progress of our country; all the citizens should be provided with equal opportunity. Article 16 guarantees equality of opportunity in public employment and it is the duty of the State to ensure this.



Which article talks about the abolition of untouchability?

In some parts of India, the caste divisions were so strict and the practice of untouchability was prevalent. Untouchability is an inhuman practice of treating certain people as dirty and untouchable because they belong to certain castes. Article 17 of the Constitution abolishes untouchability.

Article 17 forbids the practice of untouchability of any sort; it is regarded as a punishable offence before the law. The Supreme Court of India has held the State responsible to ensure that Article 17 is put into practice. The State is also responsible to take special steps to make sure that this law is not violated.



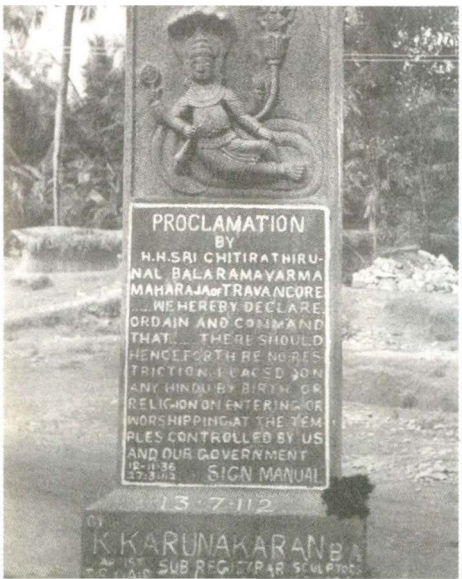
What does Article 18 talk about?

In India, there was a practice of awarding titles like 'His Highness' or 'Nawab'. Article 18 abolishes such titles. If these titles are abolished, why do we still use some titles like lieutenant colonel or major? Why do we call a person with a PhD doctor? Won't this be illegal?

When Article 18 was formulated, exceptions were made in the case of academic and military distinctions. Apart from this, citizens of India are prohibited from accepting any titles from other countries.

Also, in the case of foreigners holding offices in India, titles from a foreign State cannot be accepted without the permission of the President.

Stone engraving of the temple entry proclamation in Kerala, 1936



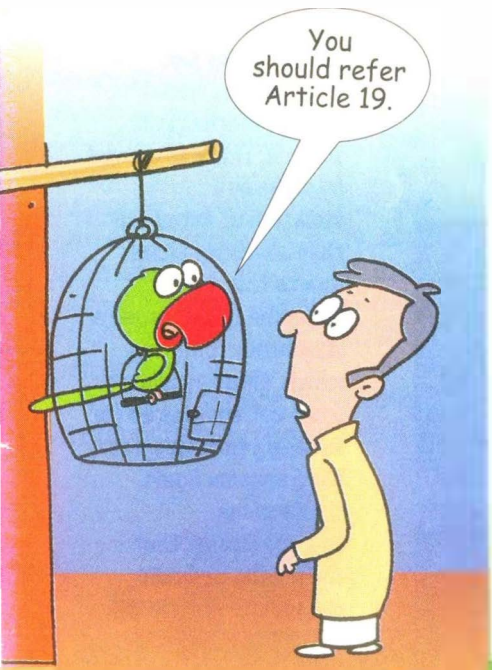
STAR FACT

Violation of Article 18?

A question had arisen about the civilian awards like the Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. These awards are conferred by the President on Republic Day for meritorious service. This was viewed by some as a violation of Article 18 that abolishes titles. Due to this, the Supreme Court issued a stay order following which, these awards were not announced for several years. However, the Supreme Court finally came to a conclusion that these awards would not violate Article 18.

103 Amendments

As of January 2019, the Constitution has been amended 103 times.

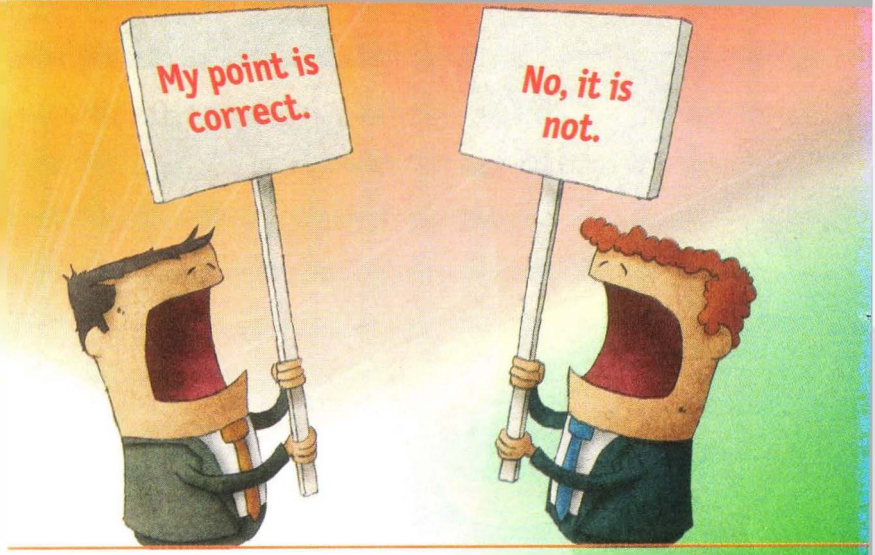


Which article grants the right to freedom?

Article 19 of the Constitution talks exclusively about the right to freedom. In fact, it talks about six types of fundamental freedoms-

1. freedom of speech and expression
2. freedom of assembly without arms
3. freedom to form associations
4. freedom of movement throughout the territory of India
5. freedom to reside and settle in any part of India and
6. freedom of profession, occupation, trade, or business.

These freedoms are recognised as the 'natural rights inherent in the status of a citizen'. In fact, the citizens of India also have the provision to ask for the help of the State to protect these freedoms.



What do we know about the freedom of speech and expression?

You might have heard in the news about people fighting for the freedom of speech and expression. But, what is it that they are really fighting for?

In a democratic country, people have the right to discuss and express opinions. This means that every citizen of India is free to express his/her views, beliefs and convictions without any inhibitions. This can be done by the word of mouth, writing, printing, or picturing.

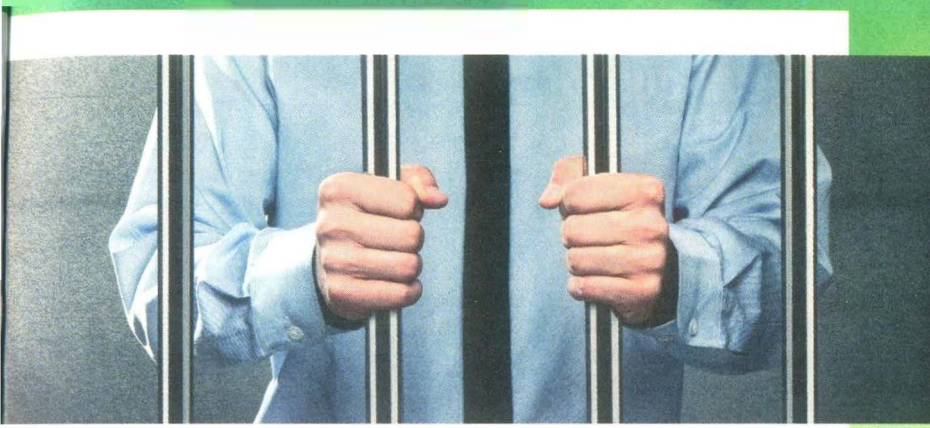
Though it does not directly refer to the press, this right also includes the press and the media. In fact, the freedom of speech and expression is the heart and soul of healthy social and political discussions.

Why is the freedom of profession and trade important?

In one of his famous speeches delivered before independence, Dr. Ambedkar talked about how the caste system in India decided the profession of a person even before one was born. Earlier, when the caste system was prevalent, one's profession was linked to his/her caste.

For instance, the son of a cobbler would become a cobbler and nothing else. He was not allowed to take up any other job even though he wished to.

Article 19 grants the freedom of profession and trade, bringing a revolutionary



change to the earlier norms. According to Article 19, every citizen of India has the right to practice any profession or carry on any trade if he is qualified and skilled enough. He also has the right to stop it when he wishes to. Thus, no citizen of India can be compelled to carry on a business or trade against his/her will.

What does Article 20 assure Indian citizens?

The Indian Constitution believes in the humane treatment of persons accused of crimes and has made a provision to safeguard their rights.

According to Article 20, no person shall be convicted for any offence other than the violation of law in force.

Also, they cannot be subjected to any penalty greater than that which might have been inflicted under the law in force at that time when the offence was committed.

It is to be noted that this provision is available for persons convicted for criminal offences, but haven't covered trial. In addition to this, a person cannot be punished for the same offence twice. A person accused of crime does not have to make any statement against his/her will as well.

CURIOUS FACT

It's about Life

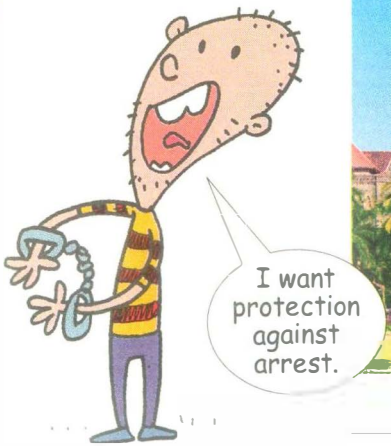
Article 21 of the Constitution guarantees the protection of life and personal liberty. 'No person shall be deprived of his life or personal liberty except according to procedure established by law', the law says. Right to livelihood too is an integral part of Article 21.

Does the Constitution guarantee protection against arrest?

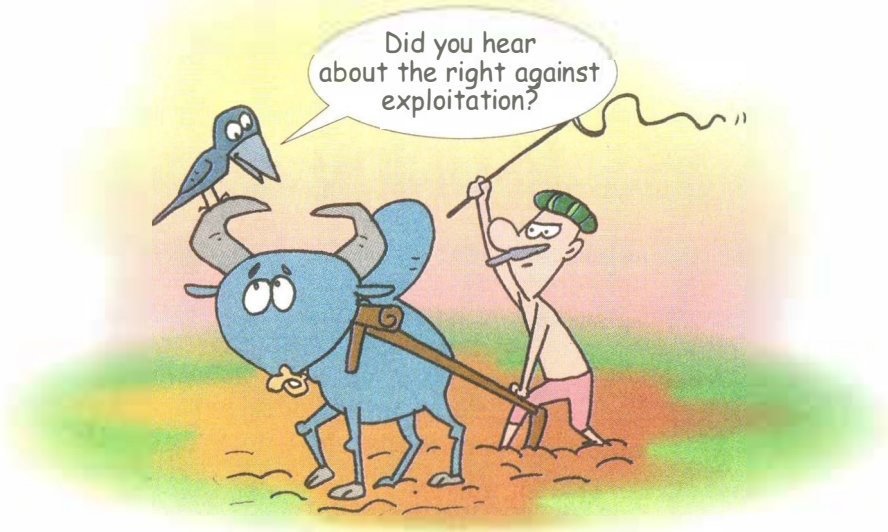
Before India gained independence, people were arrested arbitrarily and they were denied the chance of a trial. Though unfair, detention without trial was very common and was a huge issue. Sometimes, people did not even know why they were arrested. But, this is not the case anymore.

Article 22 of the Constitution provides protection against arrest and detention. A person who is arrested should be informed of the grounds of his/her arrest.

The person who is arrested should be brought in front of the magistrate within 24 hours as well. Also, they should not be denied the right to consult a lawyer.



High Court of Bombay



What do we know about the right against exploitation?

Under the old *zamindari* system, there was the practice of *begar*. This is a system in which the peasants were forced to work for the zamindars for free, or for a very low wage.

Forced labour is against human dignity and the fundamental values upheld by the Preamble. Articles 23 and 24 are all about the rights against exploitations like this. They provide protection against exploitation through

i. human trafficking

ii. *begar* and forced labour and

iii. employment of children in factories.

No person shall be compelled to work against his/her will and humans could not be misused under any circumstances. This is the idea behind the rights against exploitation.

No right to do so

The imprisonment of a poor person for not paying his/her debt is regarded as the deprivation of his/her personal liberty.

FREEDOM OF RELIGION

How does our Constitution guarantee the right to freedom of religion?

We already know that our country is secular and Article 25 of the Constitution guarantees the right of every citizen to profess, practice and propagate any religion of his choice. But there are some regulations imposed on this idea in order to ensure that secularism is put into practice.

The Supreme Court has clearly stated that the right to propagate any religion does not include any right to forcible conversions that would disturb public order.

Also, some practices that would sabotage the health of individuals (like human sacrifice) are strictly prohibited. This is mentioned in Article 26.

The right to say 'no'

Educational institutions wholly run by the State funds should not impart religious instructions of any sort. In case of other institutions aided by the State, every person has the freedom not to participate in religious instructions and worship. This is guaranteed in Article 28.

What has the Constitution done to protect the minorities?

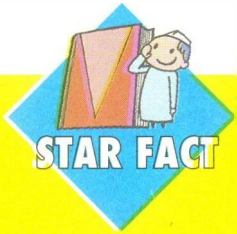
India is a vast country with various minority communities. Each region has specific indigenous communities. They practise different cultures and speak different languages. For instance, the Mullukuruma community living in the Nilgiris speak a different dialect of Tamil.

Their culture would be lost if they go extinct or if dominated by the majority communities. How does the Constitution protect these minorities?

The fundamental rights guarantee cultural and educational rights to all Indian citizens. Article 29 is specifically about the protection of minorities.

According to this article, 'every section of the citizens residing anywhere in India and having a distinct language, script or culture has the right to conserve the same.' The Constitution has not made any clear definition of the minorities though.

Khasi tribal villagers



The Foundation

Dr. Rajendra Prasad laid the foundation stone of the Supreme Court building on 29 October, 1954.

Which article is known as 'the charter of Education Rights'?

The Indian Constitution already states that no citizen can be denied admission to any educational institution either maintained or aided by the State on the grounds of religion, race, caste or language. But, can the minorities run educational institutions?

Article 30 is about the rights of minorities to establish and administer educational institutions. This article was formulated to protect minority rights. Needless to say, Article 30 is known as 'the charter of Education Rights'. This article includes linguistic and religious minorities.

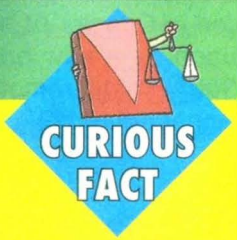
The autonomy of a minority institution cannot be taken away completely. However, the government has regulatory power over these institutions. Also, the State cannot show any sort of discrimination towards these institutions when it comes to granting aids and funds.

Is the right to property a fundamental right?

The right to property is one of the most controversial articles of the Constitution of India. Initially, it was a fundamental right. Article 31 of our Constitution says that 'no person shall be deprived of his property save by authorities of law'. It also states that the State would provide compensation if a person's property is taken over for public purposes like extending railway lines or expanding roads.

Because of the controversies and complications it created, it was removed from the category of fundamental rights. This happened in 1978 during the 44th Amendment. However, this is included in Chapter IV of the Constitution as a new article- Article 300A. It still remains a constitutional right, though it is no more a fundamental right.

Dr. B R Ambedkar



The High Court First

In case of violation of fundamental rights, a person can approach the Supreme Court or High Court for constitutional remedies. However, the Supreme Court advises citizens to approach the High Court first if relief is available through Article 226. Article 226 grants the High Courts the right to issue various writs.

What is meant by constitutional remedies?

Is it enough to guarantee many rights? Who makes sure that these rights are given to all the citizens? What happens if any of these rights are violated?

For the rights to become meaningful, it should be enforced under law. Also, remedies should be provided if these rights are violated. Article 32 of the Indian Constitution guarantees the right to constitutional remedies. It means that any citizen of India has the right to move to the highest court directly for enforcing the fundamental rights in case of any violation.

While framing the Constitution, Dr. Ambedkar described Article 32 as the heart and soul of the Constitution. The right to constitutional remedies cannot be suspended unless mentioned by the Constitution. For instance, constitutional remedies for fundamental rights except for Article 20 and 21 cannot be claimed during an emergency.

DIRECTIVE PRINCIPLES

PRINCIPLES THAT ENSURE SOCIAL AND ECONOMIC WELL-BEING OF INDIANS

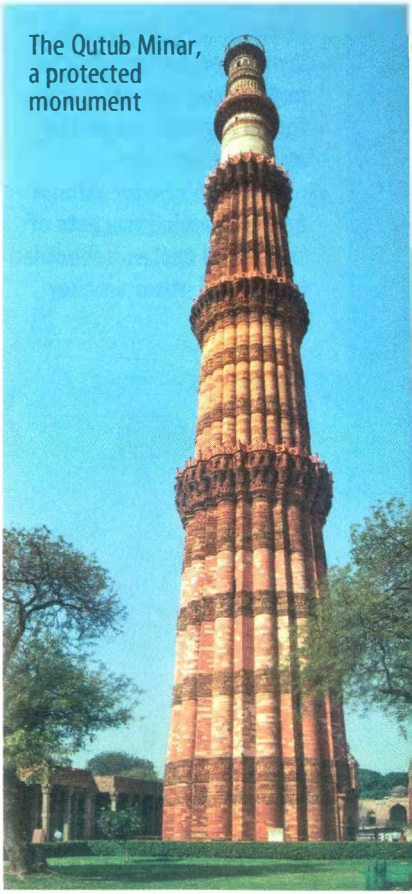
What makes the Directive Principles of State Policy of India unique?

The laws made for the people of India should make sure that all Indians enjoy social, economic and legal well-being. The Directive Principles of State Policy are something which ensures this idea. The Directive Principles are the guidelines or principles that the government is supposed to apply while making the laws and ruling the State. They have been inspired by the Directive Principles given in the Constitution of Ireland.

The Directive Principles of State Policy are broadly classified into the following categories:

- economic and social
- justice and legal
- environmental
- protection of monuments and
- peace and security

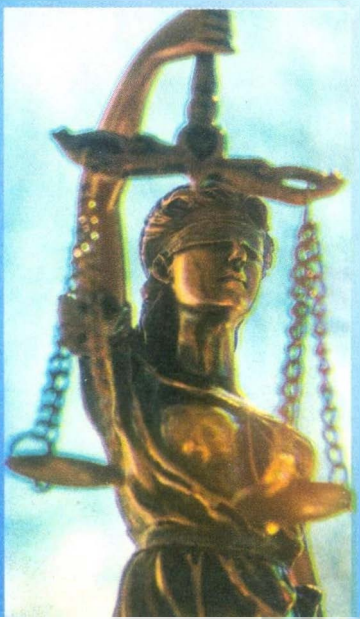
However, there is no provision for constitutional remedies in case these directives are violated.



The Qutub Minar, a protected monument

Directives for Education

Some of the important Directives are about free and compulsory education for all children up to the age of 14, and the promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.



Why is it said that the Fundamental Rights and the Directive Principles together constitute the soul of the Constitution?

The Fundamental Rights guarantee the basic rights that are essential for the righteous survival of a human being. It takes into consideration each individual and his rights. While the Fundamental Rights operate at the individual level, the Directive Principles speak for the society.

Both the Fundamental Rights and Directive Principles aim to build a society that is based on equality. They aim at both socio-economic equality and equality in justice.

While the Fundamental Rights assure the citizens their basic rights, the Directive Principles make sure that these rights are given by law. Therefore, the Fundamental Rights and the Directive Principles together constitute the soul of the Constitution.

How do the Directive Principles ensure economic and social justice?

We have been repeatedly asserting that Directive Principles are applied while making laws. But how is it done?

The State applies the Directive Principles to secure and protect social order. It secures the rights of all men and women to adequate livelihood. It makes sure that equal pay is given for equal work. It also makes provisions for the right to work, the right to education and the provision for public assistance in case of unemployment, disability, or sickness.

The State will also work to ensure a minimum wage and make policies to improve the conditions of work and also the standards of living. These provisions come under social justice.

Articles 36-51

Articles 36-51 of the Constitution of India describe the Directive Principles of State Policy. Article 40 is exclusively about the organisation of village panchayats.

What do the Directive Principles guarantee the children of India?

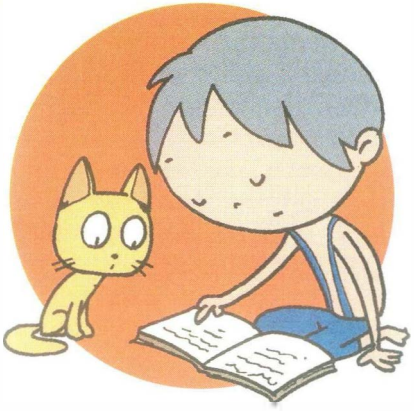
The Directive Principles show a special interest towards the children of our country. They make provisions for the healthy upbringing of children. They also provide free and compulsory education to all children till the age of fourteen.

The Directive Principles also promote the education and economic interests of the weaker sections of the society. They promote equal opportunity, and justice in the form of free legal aid to those who cannot afford it.

Some of the policies are even directed towards international peace and security, and honouring and respecting the relation between nations. There are policies regarding the settlement of international disputes as well.

The Blue Boards

While visiting various places like the Taj Mahal or Brihadeeswara temple in Thanjavur, you might have seen blue boards issued by the government stating that it is a protected monument. These monuments are monitored by the government and are part of the conservation efforts by our government under the guidance of the Directive Principles.



What does Article 44 talk about?

Article 44 of the Directive Principles presents the idea of a Uniform Civil Code. It states that 'the State shall endeavour to provide its citizens a uniform civil code (UCC) throughout the territory of India.'

The objective of article 44 was to phase out discrimination of the vulnerable groups and bring in a standard procedure for the treatment of all the citizens. This stand was taken by Dr. Ambedkar in order to bring harmony among the diverse cultural practices that exist in India.

However, this was debated for several years. In the end, it was decided that the uniform civil code should remain voluntary though it is desirable. It now co-exists with personal law systems.

A sculpture inside the Badami Cave Temple

What does the Constitution do to protect the monuments of India?

India is a land of rich and varied heritage. There are many monuments in India that are markers of our history. They stand as true examples of architectural brilliance. We have monuments like the Iron Pillar and the cave temples at Badami. The protection of these monuments is very important for preserving our history.

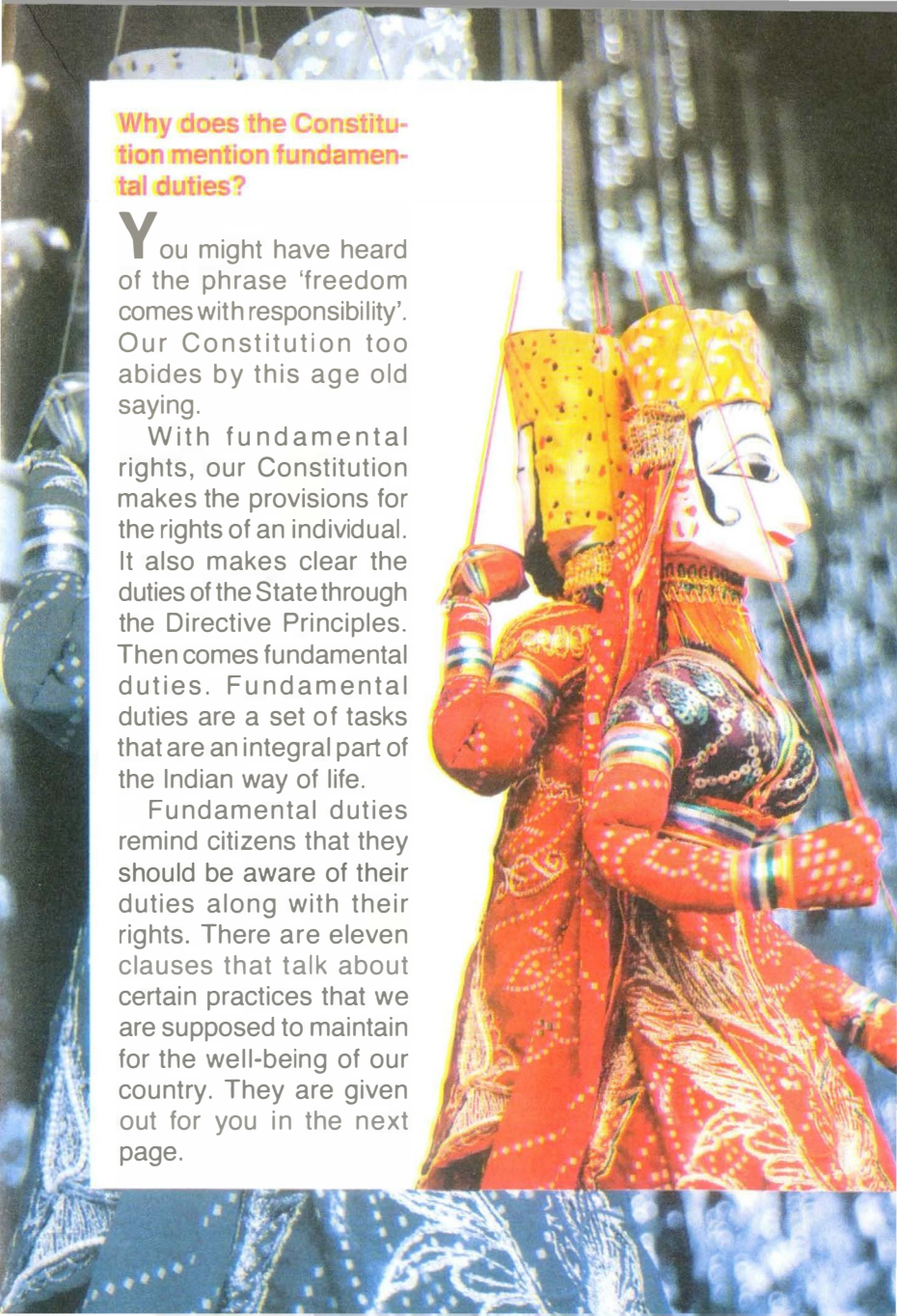
Article 49 of the Directive Principles is about the protection of monuments and places, and objects of national importance. Article 49 makes it clear that it is the obligation of the State to protect every monument or place or object of artistic or historic interest. These monuments or places or objects need to be protected from spoliation, disfigurement, destruction, removal, or export.

Why does the Constitution mention fundamental duties?

You might have heard of the phrase 'freedom comes with responsibility'. Our Constitution too abides by this age old saying.

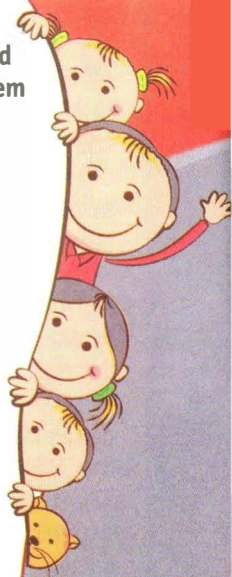
With fundamental rights, our Constitution makes the provisions for the rights of an individual. It also makes clear the duties of the State through the Directive Principles. Then comes fundamental duties. Fundamental duties are a set of tasks that are an integral part of the Indian way of life.

Fundamental duties remind citizens that they should be aware of their duties along with their rights. There are eleven clauses that talk about certain practices that we are supposed to maintain for the well-being of our country. They are given out for you in the next page.



FUNDAMENTAL DUTIES

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem
2. To cherish and follow the noble ideals which inspired our national struggle for freedom
3. To uphold and protect the sovereignty, unity and integrity of India
4. To defend the country and render national service when called upon to do so
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities; to renounce practices derogatory to women
6. To value and preserve the rich heritage of our composite culture
7. To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures
8. To develop the scientific temper, humanism and the spirit of inquiry and reform
9. To safeguard public property and abjure violence
10. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement
11. Whoever is a parent or guardian, to provide opportunities for education to his child, or as the case maybe, ward, between the age of six to fourteen years



CURIOUS FACT

The Due Punishment

If the fundamental duties are violated by citizens including the President, Vice President, Speaker, or Parliament members, they shall be punished under the Prevention of Insults to National Honour Act of 1971.

When was fundamental duties added to the Constitution?

Fundamental duties were not present when the Constitution was drafted initially. It was added later in 1976 in the 42nd Amendment.

The list of fundamental duties was added to the Constitution upon the recommendation of the Swaran Singh Committee. When it was introduced, the fundamental duties were ten in number. The eleventh one was added later on in 2002 in the 86th Amendment.

The eleventh fundamental duty instructs all parents or guardians to provide their children with opportunities for education.

Other fundamental duties are regarding honouring and respecting our nation, national symbols and composite culture.

How are the citizens of India expected to defend the nation?

It is the duty of every Indian citizen to defend the country. He/she is also expected to be ready to provide national service in case the need arises.

Unlike in many other countries, India does not have the system where there is a demand of compulsory military service of the youngsters for a fixed number of years.

However, if there is need to defend the State from external enemies, every citizen is bound to be ready to defend the country against war and other atrocities.

Sometimes, even civilians might need to take up arms to defend the country. However, when one fights to defend one's country, he/she is in turn fighting to defend his/her own liberty and rights.

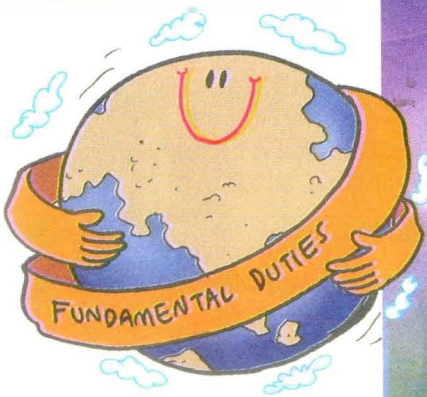
What do the fundamental duties suggest about the environment?

The Earth is not the exclusive property of anyone. It is the common heritage of every being on the surface of the Earth, be it humans, plants, or animals.

The fundamental duties of our Constitution remind us of our obligation towards the environment. This is especially relevant now, in the face of rapid climate change.

The fundamental duties of the Indian Constitution seek to protect and improve the natural environment. This includes lakes, rivers, forests and wildlife. This is formulated in accordance with the ancient Indian tradition of protecting the environment and in view of the recent hazardous changes in the global environment.

The rising air, water, soil and noise pollution, and the irreversible damages done to our forests cause irreparable harm to our planet. All this is of great concern. By conservation and protection, we can save the Earth.



Why have the fundamental duties laid stress on improving scientific temper?

Jawaharlal Nehru, one of the founding fathers of the nation and the first Prime Minister of India had always shown a keen interest in developing a scientific temper. He believed that development would take place only if people had a spirit of inquiry.

One should be ready to learn from the developments around the world. Nehru also believed that scientific development was the only way to bring progress to a country that was in the clutches of a multitude of superstitions. This idea is translated into the fundamental duties prescribed by our Constitution.

Nehru laid the foundation of modern India by building the necessary infrastructure for scientific developments. Now, every citizen of India is bound to follow his steps by promoting a scientific temper and spirit of inquiry.

Preparations of the launch of Chandrayaan - 2

THE EXECUTIVE, LEGISLATURE AND JUDICIARY

THE PILLARS THAT HOLD INDIAN DEMOCRACY INTACT

Is India a federal State?

In a federal system of government, there will be a government at the centre and governments for each unit.

Both the governments hold certain powers in their respective spheres and they function independently. Also, it has a Supreme Court that would settle the disputes between the centre and the units. Now, think of India.

India has a central government that operates at the national level. In addition to that, each state has a separate government that looks into the day-to-day running of the state. Both the central and state governments work independently though related to each other. Also, we have a Supreme Court from where the ultimate justice is meted out. Therefore, the Indian government is federal in structure.

What do we know about the division of power in the Indian Constitution?

Let's now talk about three lists. Power is neatly divided into three lists by the Constitution of India- the Union List, State List and Concurrent List.

The Union List concerns with 97 topics of national interest. The State List includes 67 topics while the Concurrent List talks about 47. The Union List talks about various national questions like foreign relations, national security, and railway and postal systems. The central government holds the supreme authority to make rules regarding these matters.

The State List deals with more local concerns and pertains to the day-to-day running of the state. Like in the case of the Union List, the state has the supreme authority to make laws in relation to the State List. The Concurrent List is specially interesting. Want to know what it deals with? Keep reading.

CURIOUS FACT

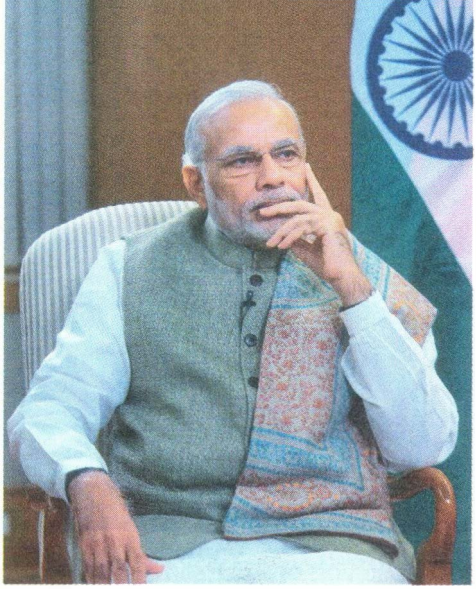
Belonging to the Two Sides

The Indian government is a quasi-federal system which is unitary in spirit. It has features of both the federal and the unitary system of governance. For instance, it distributes executive and judiciary power between the Union and the State level, which is a feature of the unitary system.

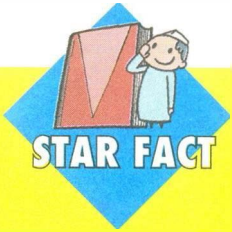
What is special about the Concurrent List?

We already know that the Union List and State List are exclusive of each other and the power over them are exclusive to the centre and the state respectively. At the same time, there are some areas where the union and the state have the right to make laws. Both the union and the state have a say in matters like education and electricity. These topics are included in the Concurrent List.

The idea of the Concurrent List is borrowed from the Constitution of Australia. Both the union and the state can make laws in the topics mentioned in the Concurrent List. But in case there is a difference of opinion between the union and the state, the laws made by the union would be given preference.



Narendra Modi, the Prime Minister of India



Unlike the British

The idea of parliamentary democracy is borrowed from the British parliament. But unlike the British where there is a hereditary monarch, we have a President who is elected by the other elected representatives.

What model of governance does India follow?

Governance differs from country to country. The governance of India differs from that of Iran or Australia. In India, we follow the parliamentary system.

India follows the parliamentary system both at the central and state level, as per the guidelines in the Constitution.

The President is the head of India. But the President largely holds the nominal power. The President receives advice from a set of ministers headed by the Prime Minister.

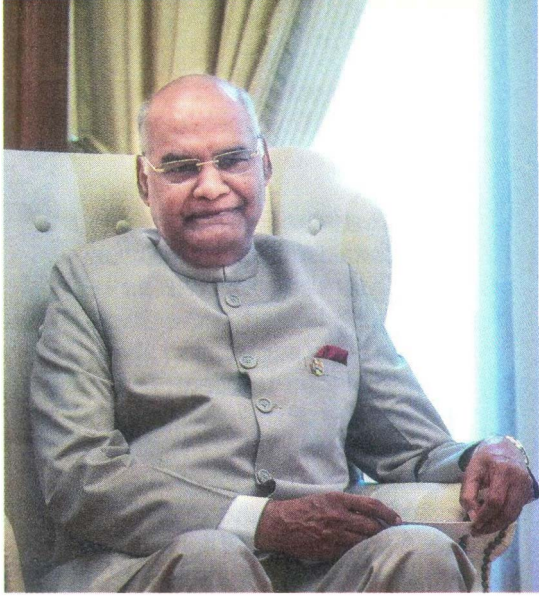
The power to make laws lies with the parliament. We will talk more about this in the coming pages. The executive powers are to be exercised according to what is said in the Constitution.

What do we know about the powers of the President?

Article 52 of the Constitution suggests that we have a President. Undoubtedly, the position of the President is of utmost dignity and honour. The Presi-

dent is the head of the nation.

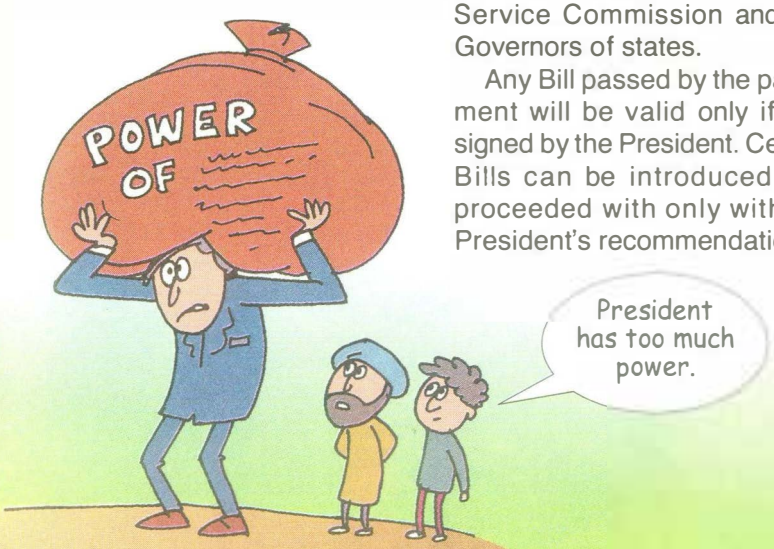
All the executive actions of the government are taken in the name of the President. It is the President who appoints the ministers. The President is an integral part of the parliament along with the two houses; he or she even has the power to dissolve the Lok Sabha if needed. The President also holds the power to appoint the Chief Election Commissioner, Attorney General, Comptroller and Auditor General of India,



Ram Nath Kovind, the President of India

the members of the Union Public Service Commission and the Governors of states.

Any Bill passed by the parliament will be valid only if it is signed by the President. Certain Bills can be introduced and proceeded with only with the President's recommendation.



What is the relationship between the President and the parliament?

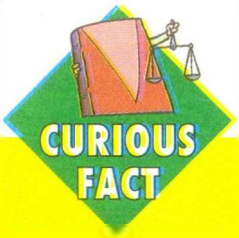
The President is expected to serve certain functions in relation to the parliament. We have already discussed some. Here is some more information about the role of the President.

It is the President who appoints the Speaker of the Lok Sabha. If there is a disagreement regarding a Bill, the President has the right to call for a joint sitting of the parliament.

The President has the right to nominate members to the Rajya Sabha; he/she can nominate upto 12 members who have shown excellence in fields like literature, art, science and social service.

Om Birla, the Speaker of Lok Sabha

Justice Sharad Arvind Bobde, Chief Justice of India



No Assent!

During the ninth Lok Sabha, an amendment proposing pension to the members of parliament after only a year's service was allowed to be introduced and passed without the President's recommendation. President Venkataraman, in response did not give assent to the Bill!

What do we know about the military and judicial powers of the President?

It is the President who appoints the Chief Justice of India. The President holds the power to appoint the judges of the Supreme Court and the High Courts; he or she also has the power to dismiss any judges if the parliament passes a resolution to do so.

The President can also ask for advisory opinion of the Supreme Court in case of a law or any other matter of public importance. This is mentioned in Article 143.

The President is the Supreme Commander of the armed forces of India. Upon the advice of the Union Council of Ministers, he/she can declare war or conclude peace.

The power to proclaim an emergency too lies with the President. The President also has the power to grant pardon in cases of punishments for the offences against Union law. He/she also has the power to pardon punishments by military courts and even a death sentence.

Dr. S Radhakrishnan,
First Vice President of India

What do we know about the Vice President of India?

Most of us might know that Venkaiah Naidu is the current Vice President of India. But what about his powers? It is the Vice President who assumes the duties of the President in his/her absence- in case of illness, death or resignation. The Vice President can do this if the President is removed from power as well. This can only be done by the Vice President as mentioned in Article 65 of the Constitution.

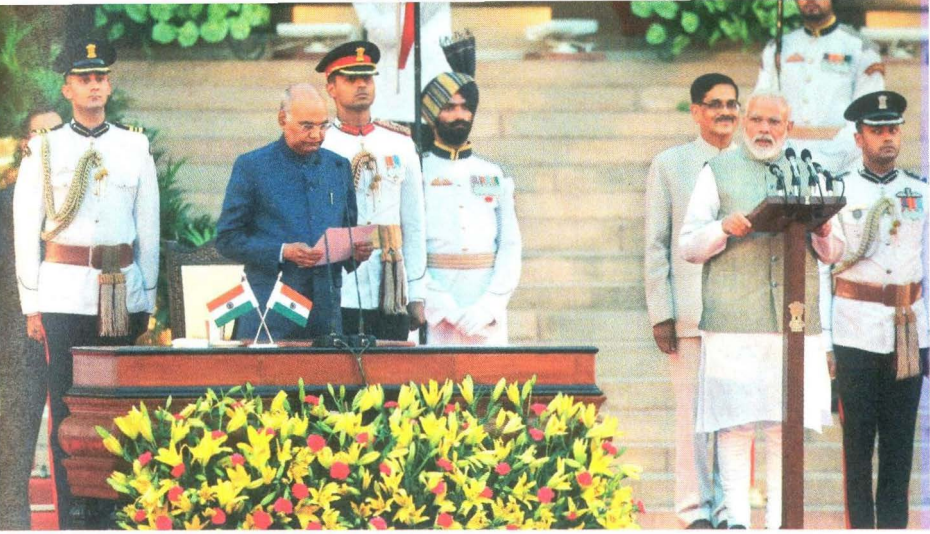
The Vice President serves as the Chairman of the Rajya Sabha as laid down in the Constitution. The members of the Lok Sabha and the Rajya Sabha elect the Vice President. He/she swears the oath before the President. Dr. S Radhakrishnan served as the first Vice President of India.

Why does the Prime Minister have a unique position?

The Prime Minister is the head of the Council of Ministers. A member of the ruling party with the majority support becomes the Prime Minister. It is the

The question of the Anglo-Indians

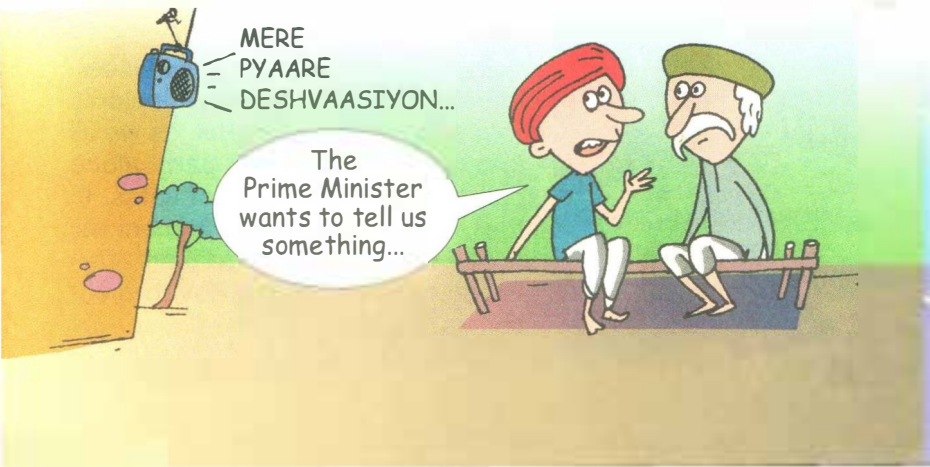
Earlier, two seats were reserved for the Anglo-Indian community in the Lok Sabha. The President could nominate these members if he/she felt that their community was under-represented. But, these seats were abolished in 2019. According to the Constitution amendment Bill of December, 2019, the Lok Sabha stopped the nomination of Anglo-Indian seats.



Swearing-in ceremony of Narendra Modi, Prime Minister of India

Prime Minister who appoints the other ministers. If the Prime Minister resigns, it is considered as the resignation of the entire Council.

The Prime Minister controls both the parliament and the executive. He/she is the head of the government as the Prime Minister is the head of ministers. It is the Prime Minister who assigns duties to the ministers. He/ she is the bridge between the President and the Ministers.



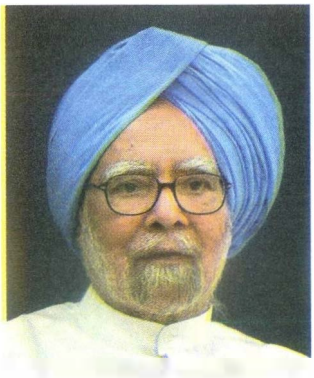
The Prime Minister with his Council of ministers

What is the role of the Council of Ministers?

We have a Council of Ministers with the Prime Minister at its helm. This is according to the instructions in Article 74 of the Indian Constitution. The duty of the Council is to advise the President of the nation. The President in turn acts according to the advise of the Council of Ministers.

The President is bound to take advice from the Council of Ministers even after the dissolution of the Lok Sabha. This idea was held by the Supreme Court in the year 1971 and failing to do so is considered as a violation of Article 74(1).

The ministers are collectively responsible to the Lok Sabha as well.

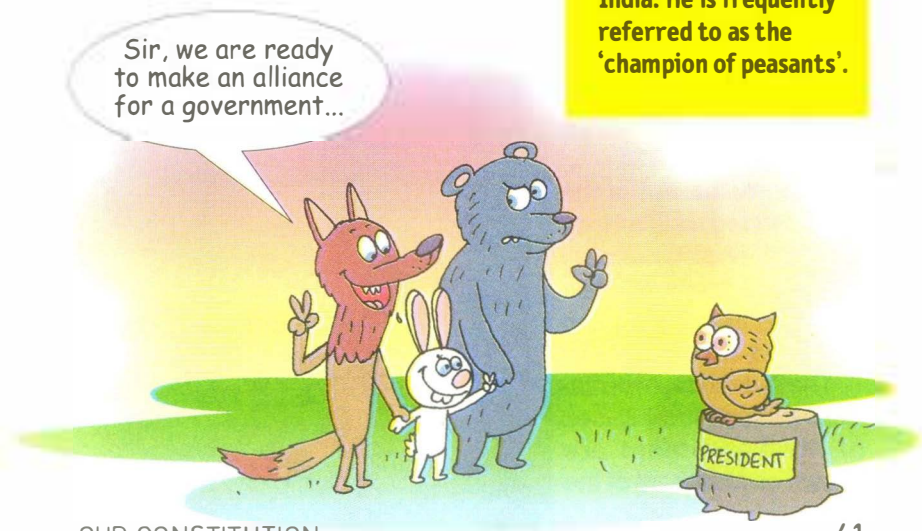


Dr. Manmohan Singh, the head of the coalition ministry of UPA

What is a coalition government?

By the term democracy, we understand that the party with a majority forms the government. But, as we all know, sometimes, one party alone cannot win the majority of votes. In those situations, the government will not be formed by a single party. This is where the coalition government comes in.

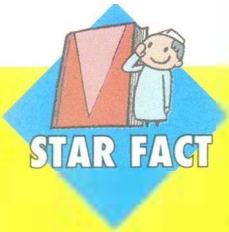
A coalition happens when two or more separate parties come into an alliance for a temporary period to form a government and to carry out the day-to day running of the State. These parties that come together retain their distinct identities though. But, they agree on a common national agenda that is to be followed by the government.



STAR FACT

The Champion of Peasants

Chaudhary Charan Singh served as the fifth Prime Minister of India. He is frequently referred to as the 'champion of peasants'.



Twice the President

Dr. Rajendra Prasad is famous not only as the first President of India. He was elected as the President twice.

What do we know about the Parliament?

Parliament is a household word for most of us. Many of us would know many things about it too. Some basic things you need to know about the Parliament are given here.

The Parliament is the supreme legislative body of India. The Parliament is composed of the President, the Lok Sabha and the Rajya Sabha.

The elected representatives in both the houses of the Parliament are known as Members of the Parliament (MP).

The Parliament House is located in Delhi; it was designed by Edwin Lutyens and Herbert Baker, and was built by the British government. Each year, three sessions are held in the Parliament, namely

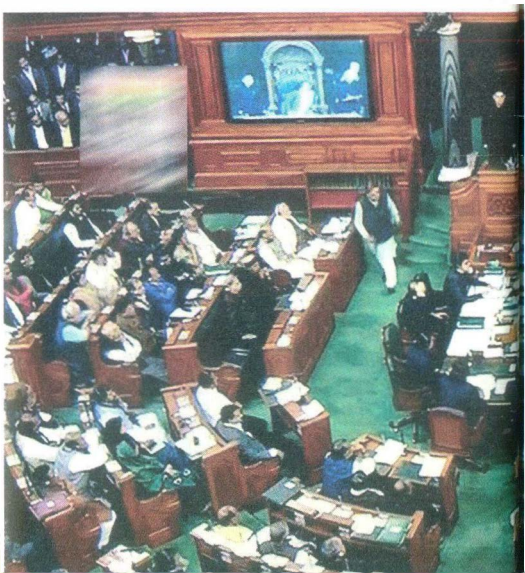
-Budget session (February to May)

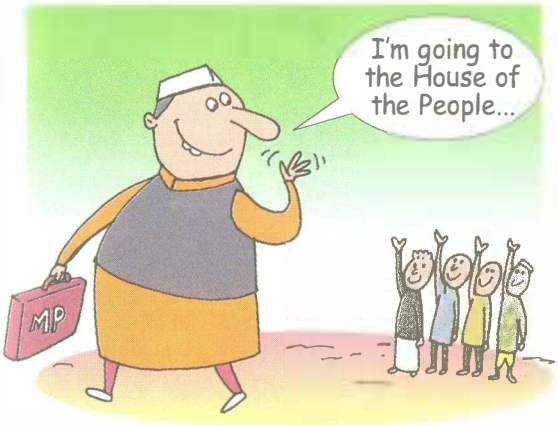
-Monsoon session (July to September) and

-Winter session (November to December)

Which House of the Parliament is known as 'House of the People'?

The Lok Sabha is commonly referred to as 'House of the People'. The House of the People is the Lower House of the Parliament and is composed of representatives directly elected by the people of India.



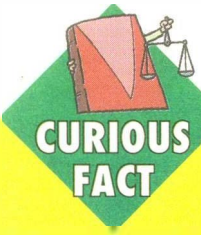


Sabha hold their seats for five years.

The first session of the Lok Sabha was conducted on 13 May, 1952 when Jawaharlal Nehru was the Prime Minister. In some regards, the Lok Sabha is more powerful than the Rajya Sabha.

According to the Constitution, the Lok Sabha has a maximum of 552 members. Out of this, there are 530 members who represent various states and upto 20 members represent Union Territories. The members of the Lok

Lok Sabha during a Budget session



The Caretaker Government

In the Constitution, there is a provision for President's rule at the state level if governance cannot be carried on in accordance to the Constitution. This provision is not allowed at the Union level.

Inside view of the Rajya Sabha

What do we know about the Rajya Sabha?

The Rajya Sabha is also known as the 'Council of States'. It is the Upper House of the Parliament. The members of the Rajya Sabha are elected through the system of single transferable votes.

The maximum number of members that the Rajya Sabha can have is limited to 245. Out of this, 233 members are elected by the legislatures of the state and Union Territories. Other than this, the President nominates twelve members based on their contributions to art, science, literature and social services.

Unlike the Lok Sabha, the Rajya Sabha cannot be dissolved by the President. The Rajya Sabha meets in continuous sessions. Also, there is a facility of simultaneous interpretation in 22 languages. This was introduced in 2018.

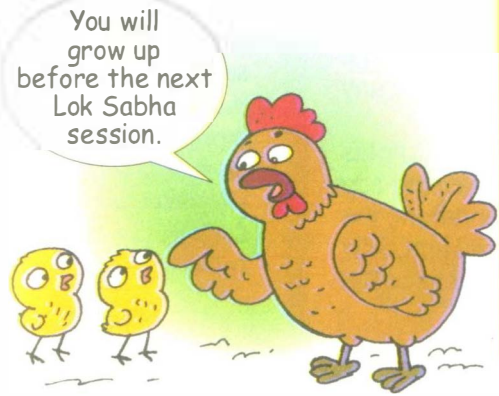
How many sessions does the Lok Sabha have a year?

The nature of meetings in the Lok Sabha is different from that of the Rajya Sabha. It is compulsory to have at least two sessions a year in the Lok Sabha. Moreover, the gap between the two sessions should be less than six months.

The President is responsible

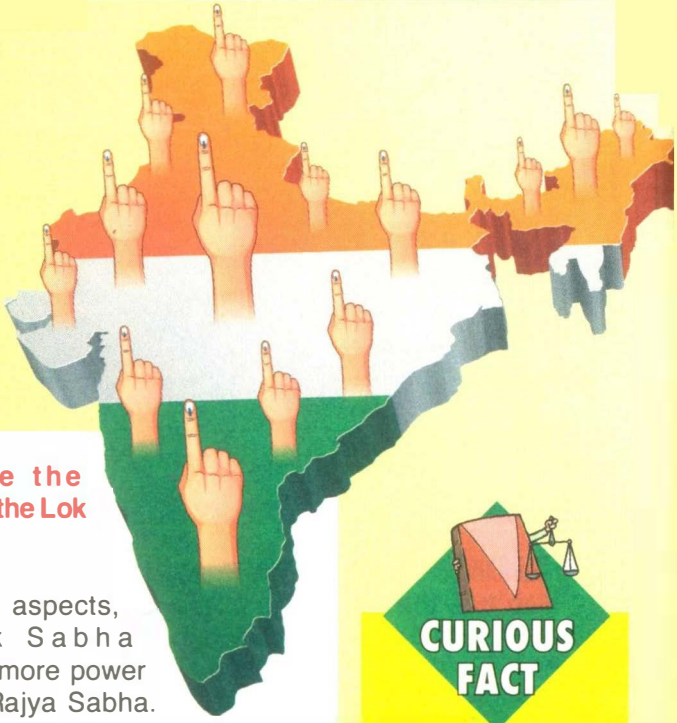
Parliament of India

for announcing the sessions. The President also has the right to stop the session. A Lok Sabha member can submit his/her resignation anytime as he /she pleases. In addition to that, if he/she does not participate in the procedures for more than sixty days without permission, the membership will be cancelled automatically.



The Leaders

Apart from the Chairman, the Rajya Sabha has two leaders- Leader of the House and Leader of the Opposition. Thawar Chand Gehlot is the current Leader of the House. Ghulam Nabi Azad is the Leader of the Opposition.



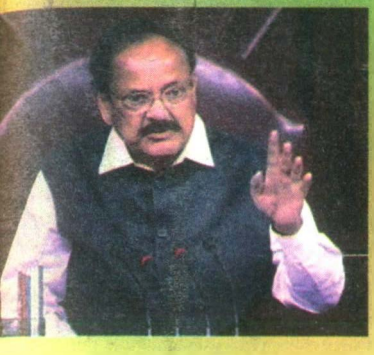
What are the powers of the Lok Sabha?

In certain aspects, the Lok Sabha exercises more power than the Rajya Sabha. Money bills can only be introduced in the Lok Sabha. It will reach the Rajya Sabha only upon being passed from the Lok Sabha. Also, motions of confidence against the government can be introduced and passed in the Lok Sabha alone. The Rajya Sabha does not have any rights over this.

The Lok Sabha shares equal rights with the other House in passing any Bill for Constitution Amendment, the impeachment of the President, and judges of the Supreme Court and the High Courts.

For the Oath

The first sitting of the Lok Sabha after the general election is devoted to the swearing-in of the members. The members affirm to 'bear true faith and allegiance to the Constitution of India'.

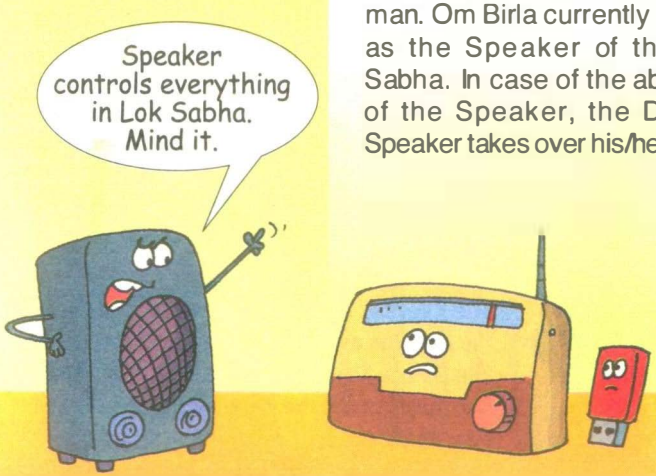


Venkaiah Naidu, the Vice President and the Chairman of Rajya Sabha

Who are the officers of the Houses of Parliament?

To monitor the functioning of the Lok Sabha and Rajya Sabha, efficient leaders are needed. To ensure this, the Constitution advises the Lok Sabha to have a Speaker and a Deputy Speaker. The Rajya Sabha has a Chairman and a Deputy Chairman.

The Speaker and Deputy Speaker are selected from the members of the Lok Sabha. Likewise, the Deputy Chairman of the Rajya Sabha is elected from the members of the Rajya Sabha while the Vice President holds the position of the Chairman. Om Birla currently serves as the Speaker of the Lok Sabha. In case of the absence of the Speaker, the Deputy Speaker takes over his/her roles.



The Prime Minister and the President arriving in Parliament for a joint session

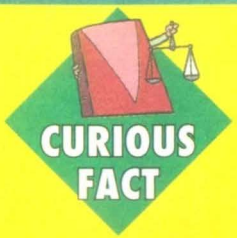
What are the powers of the Speaker?

The Speaker of the Lok Sabha conducts the business of the House. He maintains discipline and decorum.

Whenever there is a disagreement between the resolutions of the Lok Sabha and the Rajya Sabha, there will be a call for a joint sitting. It is the Speaker who presides over the joint sitting.

The Speaker mostly does not vote in the House except when there is a tie at the end of a decision.

If the Speaker loses his membership in the Lok Sabha, he/she automatically loses the position of the Speaker.



The one that cannot be Dissolved

The Speaker of the Lok Sabha will not lose his position even if the President dissolves the House. The Speaker would remain in his/her position till the next session elects the new Speaker.

Does the Rajya Sabha have any exclusive powers?

We already know that the Lok Sabha has more power in some regards when compared to the Rajya Sabha.

In matters like the Bills concerning the amendment of the Constitution, the Rajya Sabha and Lok Sabha share rights. But, in some matters concerning national significance, the power to make decisions lies exclusively with the Rajya Sabha.

The Rajya Sabha has the power to instruct and assign the parliament to make laws concerning the matters included in the State List. This is mentioned in Article 249. In addition to this, the Rajya Sabha holds the supreme power to bring in national services.

Harivansh Narayan Singh, Deputy Chairman of the Rajya Sabha

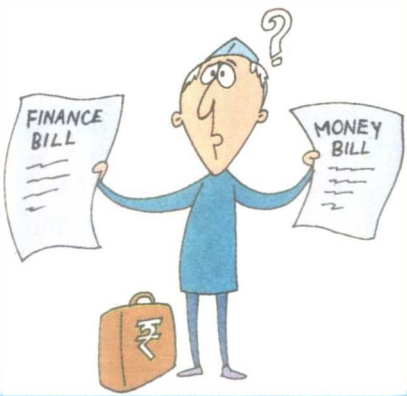
A view of the colonnade of the Indian Parliament Building

Prime Minister Narendra Modi with his ministers

What is the difference between a Financial Bill and a Money Bill?

The Constitution prescribes a clear distinction between a Financial Bill and a Money Bill. Generally, any Bill concerning revenue or expenditure is known as a Financial Bill. Financial Bills are generally of two types. Some Financial Bills talk about a specific matter while some other Bills are concerned with certain national expenditures alone.

A Money Bill is a bill that contains provisions regarding taxes, borrowings, Consolidated Funds, Contingency Funds, audit of the accounts of the Union and



so on. Also, a Money Bill can be presented in the House only through the recommendation of the President.

Which language is used in the parliament?

In 1950, the Constitution declared Hindi as the official language of the Union.

The Constitution also allowed the use of English for official purposes. This was supposed to come to an end in fifteen years. However, the Parliament came up with the Official Languages Act in 1963.

The Official Languages Act provided for the use of English along with Hindi for conducting business in the parliament. English enjoys privilege as the subsidiary official language. In addition to this, the presiding officers can allow any member to use his/her mother tongue.

Before Resigning

In case the Speaker decides to resign, he/she has to submit the resignation to the Deputy Speaker.

● *Ryan Thomas*

Parliament illuminated for Republic Day, a night view

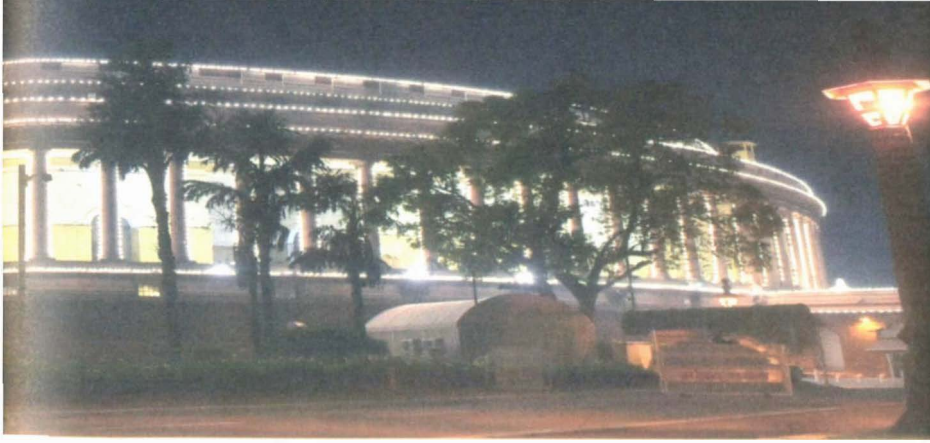
What are the functions of the parliament?

The parliament is a seminal organ of the government of India. It performs various functions necessary for keeping the nation together.

The parliament exercises certain constituent powers; it has the power to shape new laws and amend the existing ones.

The parliament is involved with the procedure of different categories of amendments. It has the capacity to make laws for the whole or any part of India. The parliament has the exclusive right over the Union List. It can legislate over some matters in the State List as well.

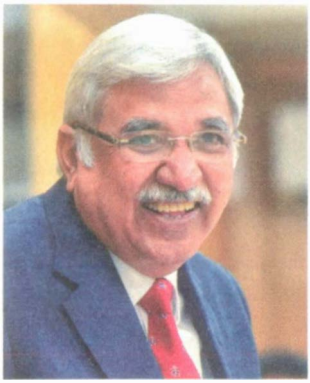
The parliament also exercises some political power over the Executive. If a majority of the members lose their confidence in the ruling party, the parliament can even throw out the government; no proof or justification is required for this.



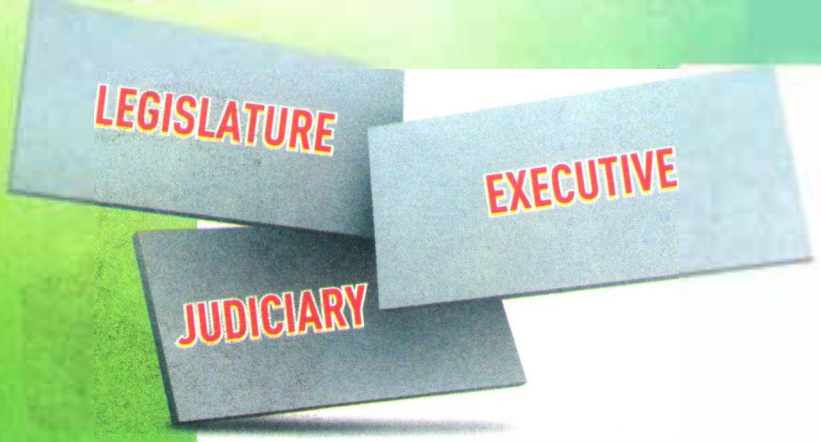
What do we know about the Election Commission?

The elections mentioned in the Constitution of India differ from the elections that are mentioned in other constitutions. In fact, the Constitution has a chapter that talks about elections alone.

We have an Election Commission, an autonomous constitutional authority that regulates and monitors elections. Article 324 of the Constitution provides the power of superintendence, direction and control of elections to be vested in an Election Commission. The commission is responsible for administering the election processes in India; it administers elections to Lok Sabha, Rajya Sabha, state Legislative Assemblies, state legislative Councils and the Offices of the President and the Vice President. The Election Commission was established in 1950.



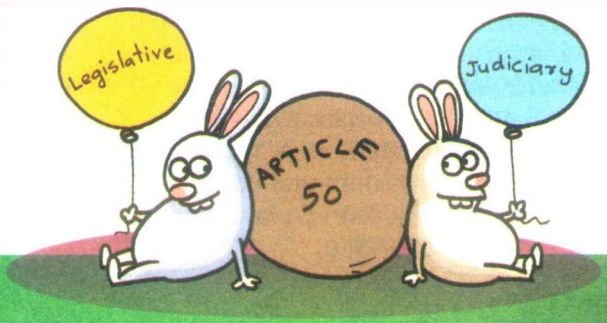
Sunil Arora, Chief Election Commissioner of India



What does Article 50 talk about?

We already know that in India, power is divided between the legislative, executive and judiciary. The Constitution has mentioned and delimited the functions of each organ. To keep a check on each other, our Constitution has also prescribed several directions. One such instruction is given in Article 50.

Article 50 separates the judiciary from the executive. This separation is a part of the basic structure and it is the obligation of the State to do so. It is essential for the proper functioning of the three organs.



However, Article 50 is not enforceable as it falls under the Directive Principles of State Policy. There are a set of other instructions regarding the same. For instance, the courts cannot inquire into the validity of the proceedings of the legislatures. This is mentioned in Article 122 and 212.

What is the job of the Attorney-General of India?

The Attorney-General is the chief law officer of the government. A person who is qualified to be a Supreme Court judge is appointed as the Attorney-General by the President. His/her job is to advise the government in anything concerning law and perform other duties of legal nature.

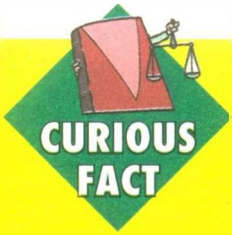
The Attorney-General has the right to speak in all courts of India on behalf of the government. He/she also has the right to participate in all the proceedings in both the Houses of the parliament, but has no right to cast vote in parliamentary procedures. In Britain, the Attorney-General is a full time member of the cabinet. But, this is not the case in India though he/she has the right to speak in both the Houses.

K K Venugopal, Attorney General of India

CURIOUS FACT

Immunity to Courts

The President and Governors enjoy immunity from court proceedings. They can neither be arrested, nor any criminal proceedings can be instituted against them. This is mentioned in Article 361.



The Equivalent One

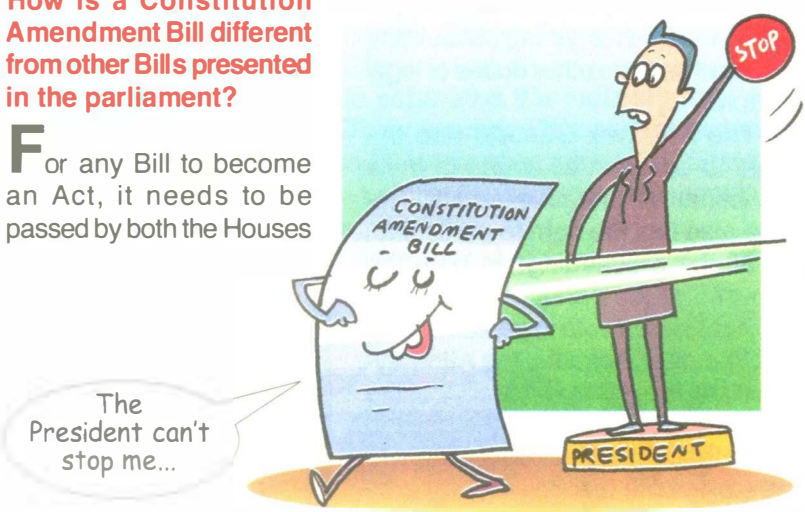
An Advocate General does for the state what the Attorney-General does for the Union. The Advocate-General can represent the state in any court of India.

How is a Constitution Amendment Bill different from other Bills presented in the parliament?

For any Bill to become an Act, it needs to be passed by both the Houses of the parliament. But, there is a difference in the treatment of a Constitution Amendment Bill and other Bills.

Usually, if there is a difference of opinion between the Houses regarding a Bill, there is a provision for a joint sitting to sort it out. This is mentioned in Article 108. But, this provision is not available in the case of a Constitution Amendment Bill.

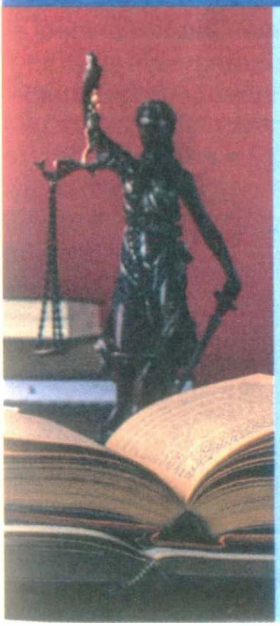
Also, the President has the right to withhold or not approve Bills. This too is not possible in the case of a Constitution Amendment Bill, if it is passed in accordance with the law. This is mentioned in the 24th amendment of the Constitution.



What do we know about the judiciary of India?

India has a unified judicial system. That means India has only one hierarchy when it comes to courts and legal procedures. This is different from other federal governments. For instance, the United States has separate hierarchies for federal and State courts.

HIERARCHY OF THE INDIAN JUDICIAL SYSTEM



Supreme Court of India

The highest court of the country.

High Courts

The highest court at the state level.
There are 25 high courts in India.

District Courts

Established by the state governments of India.
They administer justice at the district level.

Subordinate Courts

Also known as Lok Adalat.

A Special Case

The retirement age of a Supreme Court judge is 65. A Supreme Court judge cannot practise in any of the courts in India after he/she resigns. The government can still appoint him/her for expert advice or specific jobs.

● *Sneha Rao*

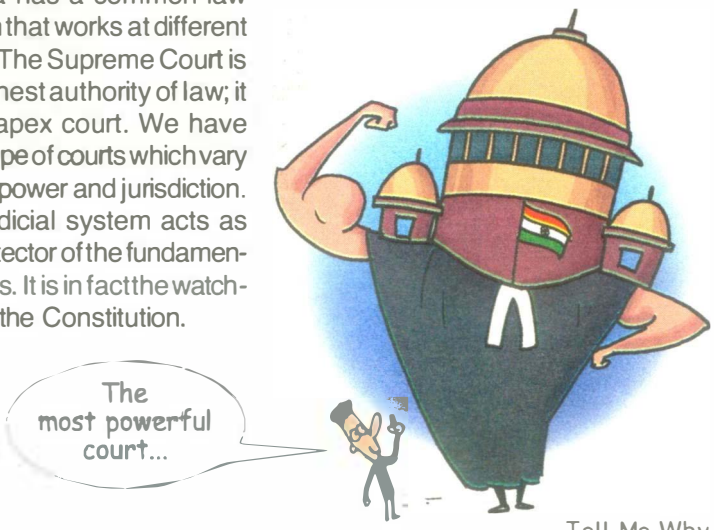
India has a common law system that works at different levels. The Supreme Court is the highest authority of law; it is the apex court. We have other type of courts which vary in their power and jurisdiction. The judicial system acts as the protector of the fundamental rights. It is in fact the watchdog of the Constitution.

Moreover, the Indian judiciary is an independent authority which remains unaffected by the pressures and pulls by the other organs.

What are the powers of the Supreme Court of India?

The year 1950 is a landmark in the history of India due to various political reasons. One such landmark event was the establishment of the Supreme Court of India replacing the Federal Court of India. We already know that the Supreme Court is regarded as the most powerful institution of India.

The Supreme Court has various functions including safeguarding fundamental rights, settling disputes



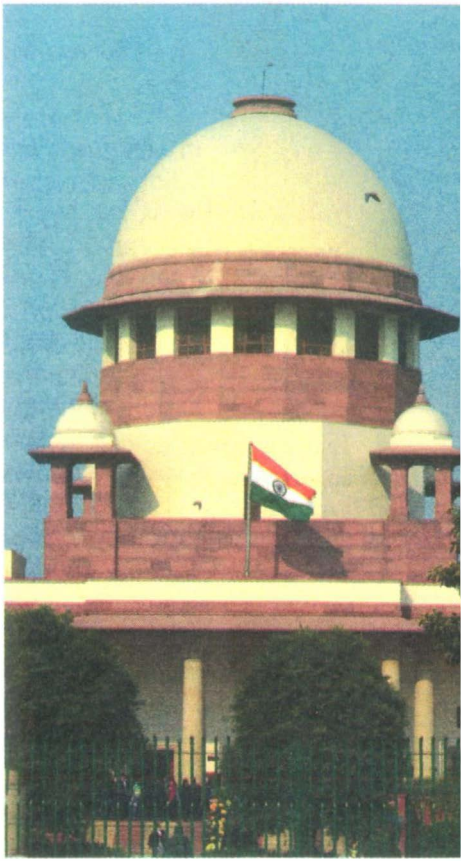
between various government organisations, and mediating between the state governments and the Union; the Supreme Court even has the right to question parliamentary rules and laws. The Supreme Court is constituted by 34 judges including the Chief Justice of India and has the right to frame its own rules for the procedures and practices of the court. This is mentioned in Article 145.

What is the qualification of a Supreme Court judge?

It is the President who appoints the judges of the Supreme Court. This can only be done after taking into consideration the opinions of other judges of both the Supreme Court and the High Courts. Also, for the appointment of judges other than the Chief Justice, the President is bound to ask the opinion of the Chief Justice.

To become a judge of the Supreme Court, a person must be a citizen of India. He/she should have worked as a judge in the High Court for a minimum of five years. Or, the person should have worked as an advocate in the High Court for ten years.

A person can still become a judge in the Supreme Court even if these parameters are not met if the President certifies him/her as a distinguished jurist.



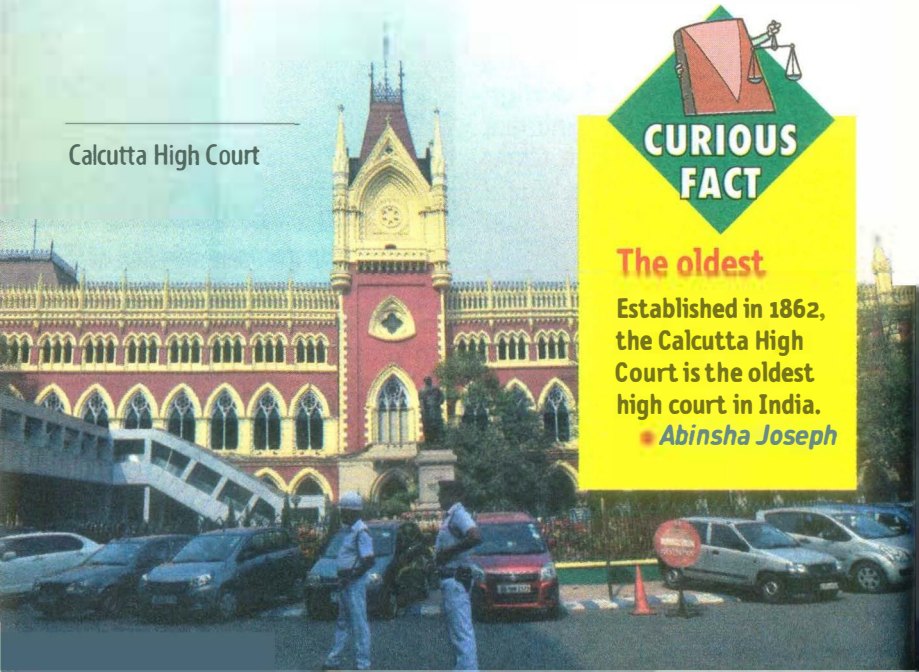
Indian flag in the Supreme Court of India

What do we know about the High Courts?

The High Courts are the highest legal authority of a state and administers common law. The Constitution advises each state to have a High Court. However, two or more states and union territories can have a common High Court. For instance, Tamil Nadu and Pondicherry have a common High Court-the High Court of Madras.

Like the Supreme Court, the High Courts too exercise criminal and civil law and have the right to punish the guilty. Some High Courts also enjoy original jurisdiction that concerns matters that are exclusive to the state.

High Courts that handle too many cases from a region may also have permanent benches. District courts, courts of judicial magistrates of first class and other subordinate courts come under the High



Calcutta High Court

CURIOUS FACT

The oldest

Established in 1862, the Calcutta High Court is the oldest high court in India.

Abinsha Joseph

Courts of the respective territories.

The High Court is headed by the Chief Justice who is appointed by the President after consulting the Chief Justice of India.

What do we know about the writs mentioned in the Constitution?

By now, we have a fairly good knowledge of the Fundamental Rights and why it is important to protect and enforce them.

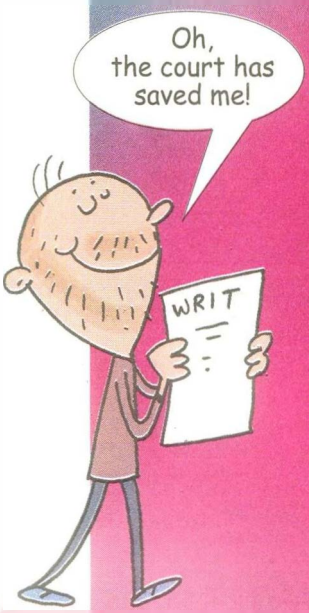
The Constitution guarantees every citizen the right to approach the High Court or the Supreme Court in case of the violation of Fundamental Rights. At the same time, the highest courts of the country can issue something called writs to enforce Fundamental Rights.

Put in simple terms, a writ is a formal written order issued by the Supreme Court or the High Courts. Any person whose Fundamental Rights have been infringed has the right to file a writ petition at the Supreme Court.

The Supreme Court will issue a writ if the person succeeds in proving that his/her rights have been violated. Article 32 and 226 provide for five kinds of writs. More information about these writs is given here for you.

The National Emblem

The National Emblem was adopted on 26 January 1950-the day India was declared a republic with its Constitution coming into effect.



Writs mentioned in the Constitution

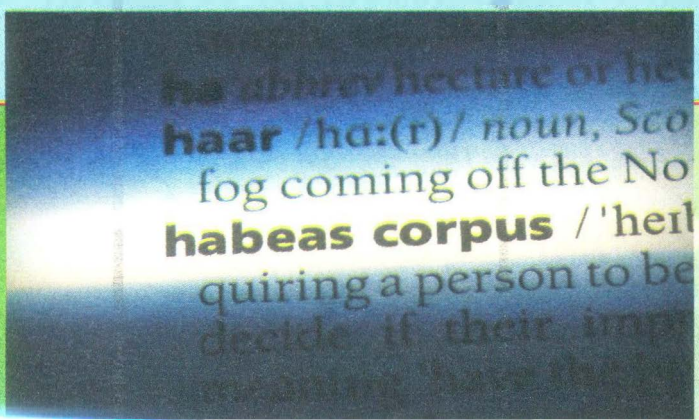
Habeas Corpus - This writ is used to release a person who has been unlawfully detained or imprisoned. The person should be released immediately if the Court finds the detention unlawful.

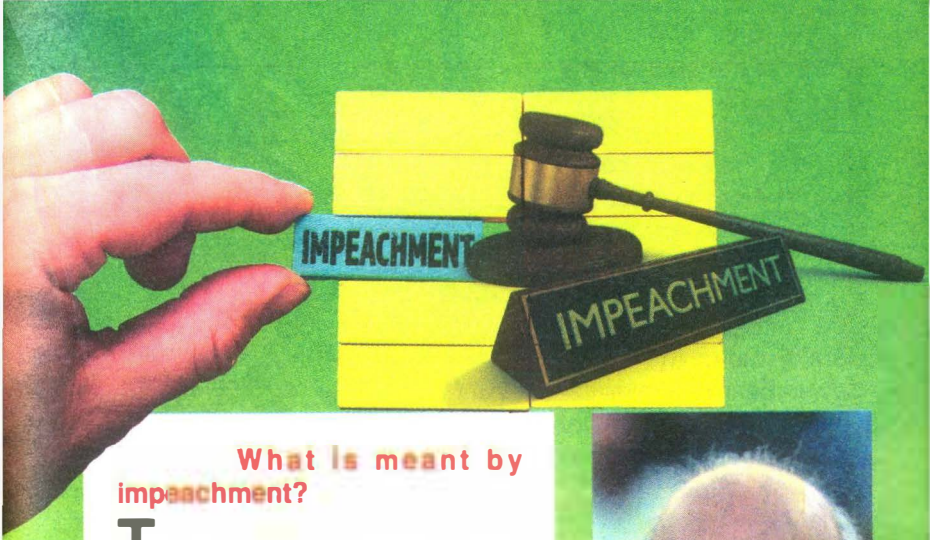
Mandamus - It is used by the Court to direct a public authority to do the legal duties it has either not done or refused to perform.

Quo Warranto - The Court uses this writ to call upon a person holding a public office to justify the grounds on which he/she holds the office. The objective is to prevent the usurpation of public offices. However, this can't be issued against a private office.

Certiorari - This is a curative writ. If the Court feels that a lower court has passed an order that is beyond its power, or has committed an error of law, the Court uses this writ to either transfer the case or to dissolve the law that was passed.

Prohibition - This is used to prohibit the lower courts to do something that is beyond their authority.

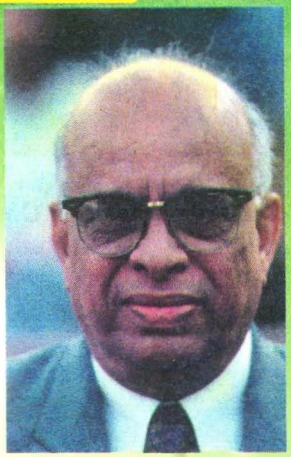




What is meant by impeachment?

The judges of the Supreme Court and the High Courts assume very important positions in the judicial system of India. But under certain circumstances such as misconduct or malpractice, there is a provision for the removal of a Supreme Court or High Court judge. The procedure to do so is known as impeachment.

The instructions regarding impeachment are mentioned in Article 124(4). In case of an impeachment, the parliament holds the complete authority for the collection of evidence and the President has the power to carry out the impeachment. Justice V Ramaswami was the first Supreme Court judge against whom removal proceedings were initiated (1991).



Justice V Ramaswami

What is the role of the Governor?

The President appoints the Governor as the head of the government of a state. The Governor's role in the state government is equivalent to the President's role in the Union government. However, the Governor is the nominal head of the state and the real power lies with the Chief Minister.

The Governor takes his oath before the Chief Justice of the High Court of the concerned state. A Governor is usually appointed for a period of five years. The primary duty of the Governor is to defend the Constitution. It is the Governor who appoints the Chief Minister and other ministers of the Council.

It is the Governor who inaugurates the State Legislative Assembly. The Governor even has the right to dissolve

Governor of Karnataka Vajubhai Vala (Right) during the swearing-in ceremony of HD Kumaraswamy, former Chief Minister of Karnataka

Legislative Assembly of Karnataka

it. The State Budget is presented before the Governor. He can also impose President's rule if needed.

What do we know about the State Legislative Assembly?

The Parliament exists at the Union level, representing and deciding matters of national interest. Similarly, each state has a State Legislative Assembly that houses the legislative body of the State.

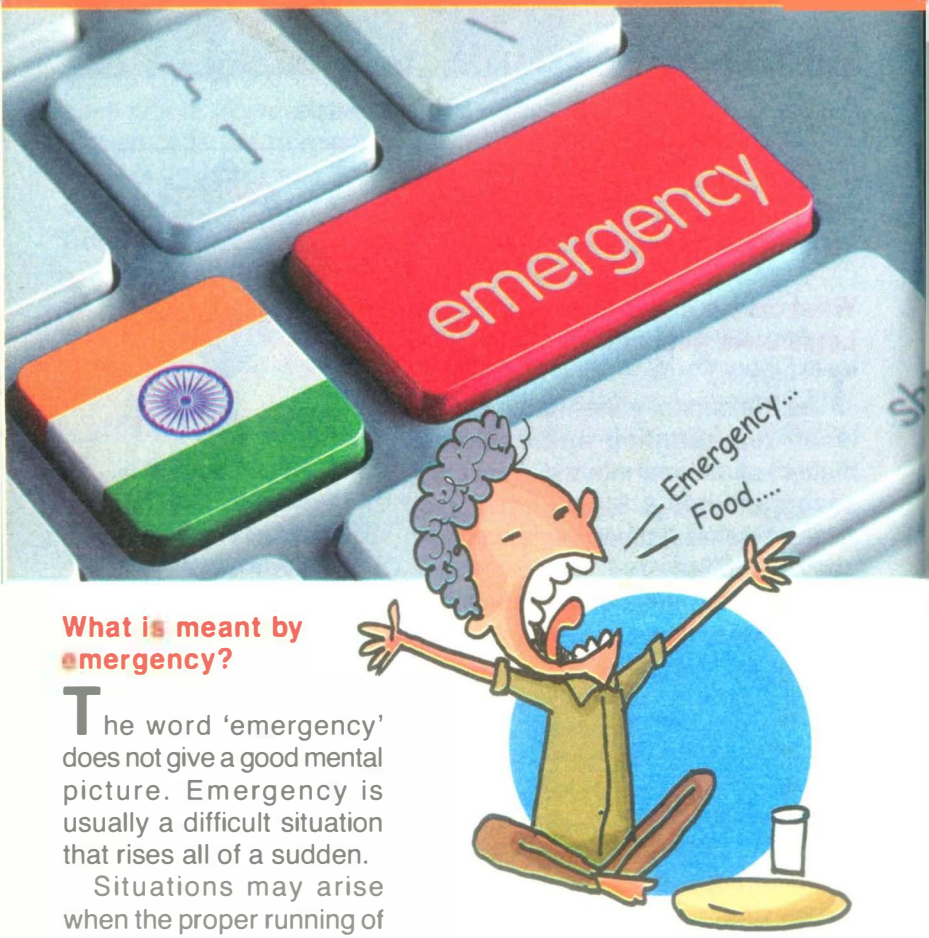
The upper house of the legislative Assembly is known as the Legislative Council and it holds advisory power. The provision for a joint sitting in case of a difference of opinion is not extended to the State Legislative Assembly. A motion of no confidence against the state government can only be introduced in the Legislative Assembly, much like what happens in the Lok Sabha.

Eligibility Matters

Article 157 and 158 of the Constitution talk about the eligibility of the Governor. A Governor must be a citizen of India who is at least 35 years of age. He/ she should not hold any office of profit, and should not be a member of either Houses of the Parliament, or the House of the State Legislature.

EMERGENCY

WHEN NORMALCY FAILS.....



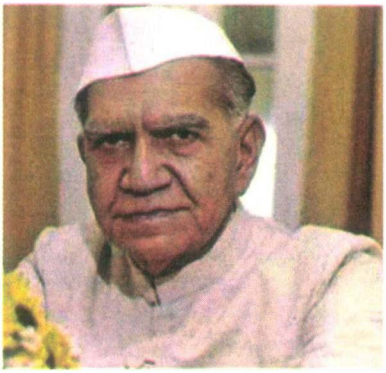
What is meant by emergency?

The word 'emergency' does not give a good mental picture. Emergency is usually a difficult situation that rises all of a sudden.

Situations may arise when the proper running of

the government under the normal schemes of the Constitution will not be possible. Such a situation is known as emergency. The government will follow a different procedure in times like this.

The Constitution describes two kinds of emergencies- a national emergency and a financial emergency. Apart from this, there is a third kind of emergency that arises from the failure of the constitutional machinery. At the time of an emergency, India could convert itself into an entirely unitary State under the President's rule.



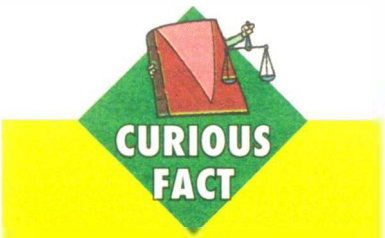
Fakhruddin Ali Ahmed, the President who proclaimed National Emergency in 1975

What is national emergency?

A national emergency is proclaimed when there is a threat of war or armed rebellion. Article 352 talks about the laws about national emergency.

Article 352 gives the President the rights to proclaim emergency in the whole of India or certain parts if he feels that the security of the country is in grave danger due to war or any sort of external aggression. The President should be convinced of this after receiving a written application from the cabinet of ministers.

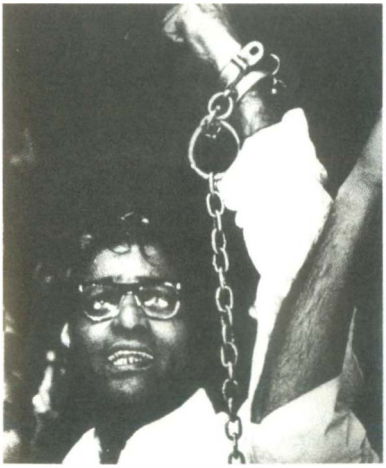
The proclamation of emergency should be approved by the parliament within a month. Once



Within a Month's Time

If the need for a national emergency arises after the dissolution of the Lok Sabha, a new session has to be held and it must approve the proclamation within a month.

approved, emergency can remain operational for six months. The emergency does not have to be proclaimed across the country. It can concern specific areas alone as well.



George Fernandes during a protest against the National Emergency, 1975

What happens during a national emergency?

By now, we know that the rules during emergency are something different from normal times. But what exactly are the changes? Let's take a look.

During a national emergency, the federal system of governance will cease to exist. In such a situation the Union would have the power of the state executive; the Union can even make laws on the matters prescribed in the State List. The freedom of speech and expression, which is a fundamental right guaranteed by the Constitution will not remain operational during national emergency. This is mentioned in Article 358.

In addition to this the President can also produce an order

Indira Gandhi, Prime Minister who proclaimed the Emergency, 1975

that temporarily stops the right to constitutional remedies. But, the President has to make it clear in the order, which fundamental rights are going to be non-operational.

When did India proclaim a national emergency?

India declared emergency for the first time in history on 26 October,1962. The India-China war was happening and the security of the country was under the threat of external aggression. It lasted for almost six years and was withdrawn on 10 January, 1968.

India went on to the second emergency in 1971. The reason this time was the Indo-Pak war. Pakistan had begun a war against India that led to the proclamation of national emergency on 3 December, 1971. This came to an end in 1977. India declared a third emergency while the

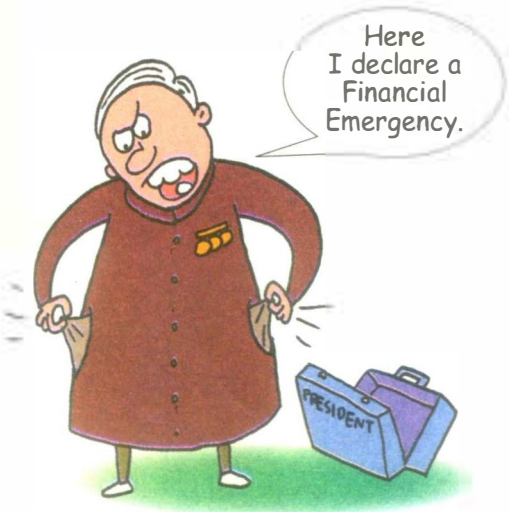
Jayaprakash Narayan on a protest

second one was still in effect. This was between June, 1975 and March,1977; Indira Gandhi, the then Prime Minister declared emergency due to internal disturbance.

When is a financial emergency declared?

As the name suggests, a financial emergency is declared in India when there is a financial crisis. If the President feels that the financial security is vulnerable either in whole of India or in specific regions, the Constitution provides him with the authority to declare financial emergency. This is mentioned in Article 360.

In case of proclamation of financial emergency, both the Houses of the parliament have to pass the proclamation within two months. The Union is responsible for taking necessary steps to ensure financial security and stability during this kind of an emergency. The government will also have the right to reduce the salary of government officials including the High Court and Supreme Court judges.



Safe till now

India has never had a financial emergency till 2019.

Dal Lake, Srinagar

Why is Article 370 important?

Article 370 was something that filled the newspaper headlines last year. The article granted special status to Jammu and Kashmir. This was drafted in Part XXI of the Constitution titled Temporary, Transitional and Special Provisions.

The special provisions included separate laws even related to citizenship, fundamental rights and ownership of property. According to this, Indian citizens of other states could not purchase land or property in Jammu and Kashmir. This law was in effect since 1954. However, things changed in 2019.

On 5 August, 2019, the Government of India scraped off Article 370. This resolution surpassed the order of 1954 and was passed in both the Houses of the Parliament with a 2/3 majority. Jammu and Kashmir was divided into the Union Territory of Jammu and Kashmir and Union Territory of Ladakh following this. This reorganisation took place in October, 2019.

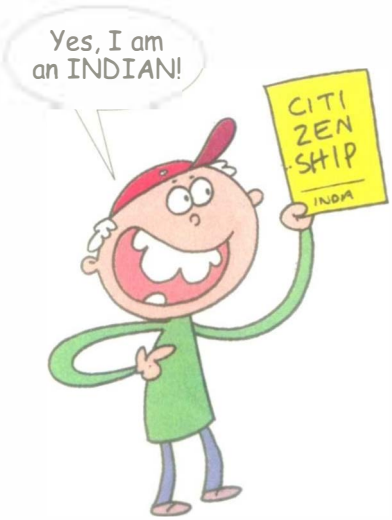
CITIZENSHIP

THE MOST FUNDAMENTAL RIGHT OF ANY INDIAN

Why is citizenship important?

Citizenship is fundamental to a person's political existence. It is as important as food, water and clean air for the sustenance of life. Citizenship assures a person's political membership in a country.

To make things simple, citizenship can be viewed as the legal relationship between an individual and the nation. Citizenship recognises a person's allegiance to a nation officially and guarantees his/her rights. It brings in certain privileges and also some duties and obligations.



A person will be eligible to get the benefits of public offices only if he/she is a citizen of India. This is applicable to recruitment as well. Moreover, a person can cast vote for elections only if he/she is a citizen of India. By availing

citizenship, a person pledges his/her loyalty to the nation. In return, the nation offers its protection to its citizens.

What does Article 5 talk about?

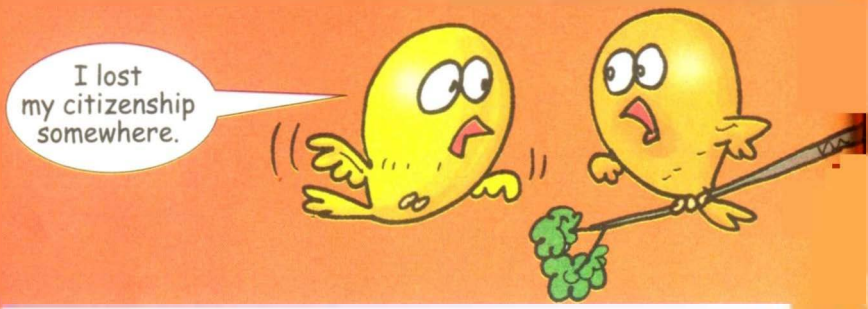
Article 5 talks about the criteria of citizenship at the commencement of the Constitution in 1949. It suggests that any person residing in India is a citizen if he/she

a) was born in India

b) either of whose parents was born in India or

c) was not born in India, but was ordinarily resident for more than five years.

Articles 5-11 concerns citizenships. Other than what is mentioned above, the provisions for citizenship at the commencement of the Constitution also included the migrants from Pakistan and the Indians residing in foreign countries.



Under what circumstance will a person lose his/her citizenship?

An Indian citizen can lose his/her citizenship under the following circumstances:

i) a person can willingly cancel his/her citizenship.

ii) gaining citizenship of a foreign country or

iii) circumstances like using forged citizenship certificate or engaging in activities that disrespect the Constitution.

Some federal States follow the policy of dual citizenship. For instance, in addition to the citizenship of the US, an American citizen will also hold the citizenship in any of its States. This is not the case with India. People from all the states of India have just one citizenship.

In 2005, the Union came up with something called 'Overseas Citizenship'. This provision is available for some sections of Indians who had settled outside India. This excludes the persons who have obtained citizenship of Pakistan and Bangladesh.

1949 Model

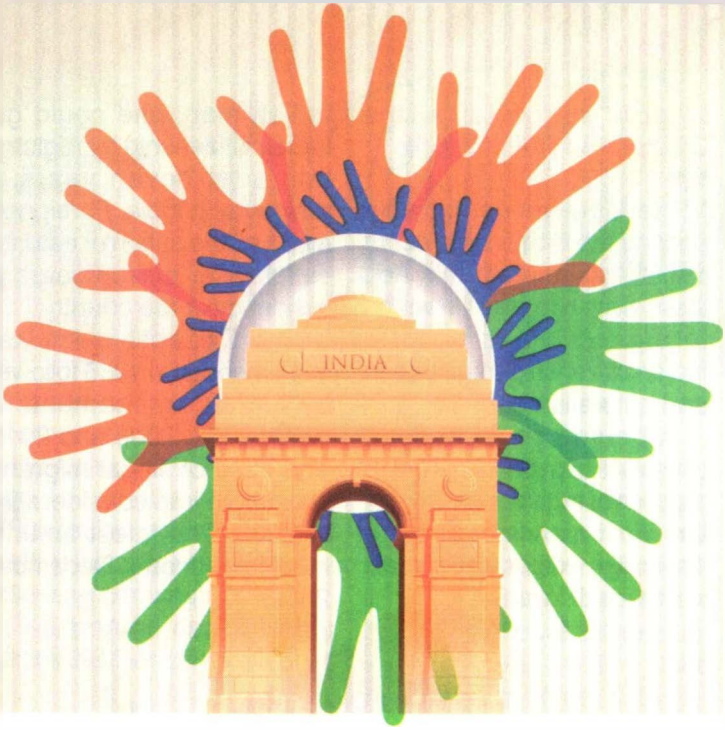
The concept of Indian citizenship did not exist at the time India became independent. It came into existence on 26 November, 1949 when the Constituent Assembly adopted the Constitution.

What do we know about the Citizenship Act of 1955?

The Government of India passed the Citizenship Act in 1955. According to this Act, there were two ways in which foreigners could acquire Indian citizenship- registration and naturalisation.

A person could acquire citizenship through the process of registration. For instance, if a foreign woman is married to an Indian man, she could get Indian citizenship by registration after seven years of residency in India. Foreigners also had the option of naturalisation after eleven years of residency in the country.

The Citizenship Act was first amended in 1986 followed by further amendments in 1992, 2003, 2005 and 2015. The case of illegal migrants was taken into consideration in 2003. The latest amendment happened in December, 2019.



Why is the Citizenship Amendment Act (CAA) of 2019 in the news?

On 11 December, 2019, the Parliament of India passed the Citizenship Amendment Act. It was an amendment of the Citizenship Act of 1955.

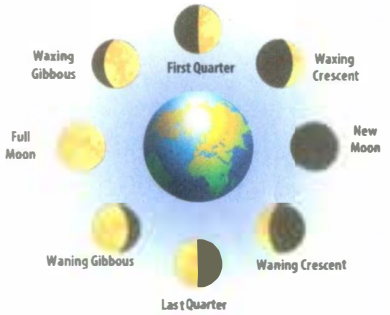
This Amendment, provides citizenship for Hindu, Sikh, Buddhist, Jain, Parsi and Christian minorities that had fled persecution from Pakistan, Bangladesh and Afghanistan before December, 2014.

The Act offers citizenship to people of the prescribed countries who have either suffered or feared religious persecution. It also reduced the resident requirement of naturalisation from eleven to five years. However, the Act met with widespread protest across the country as Muslims were not included in the list.

Corrections & Clarifications

Ananya Mahantesh has written to us regarding a correction in the *Tell Me Why* issue on 'Man and the Moon' (November, 2019).

On page 29, we have given an image that shows the phases of Earth's Moon. The waxing gibbous was mentioned as waning gibbous. The correct image is given below.



Thank you Ananya for your valuable feedback.

- Editor

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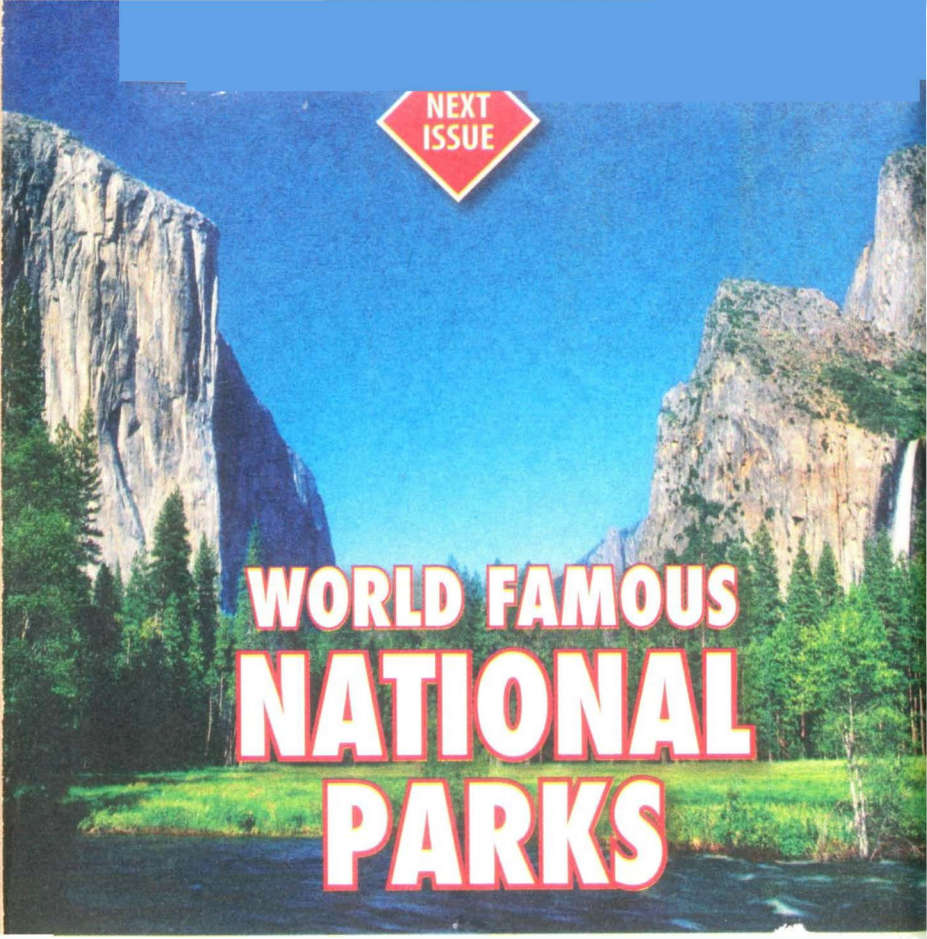
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